

Getting Out



KEY STRATEGIES FOR SELLING YOUR INSURANCE AGENCY

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If you want the Sample Agreements in a Word document, just send an email request to eddie@FYIExpress.com.

Getting Out: Strategies for Selling Your Insurance Agency

No career lasts forever, and the insurance profession is no different. There are many reasons agency owners decide to sell their businesses:

- a desire to start something new;
- old age;
- health issues;
- spouse needs to relocate for work;
- divorce;
- mental burnout; and/or
- retirement.

Regardless of the reason(s), you do not want to walk away with nothing to show for all the years you've worked in the industry. Here are some strategies and tips to prepare for the sale of your insurance agency.

Build your brand, but your brand can't be *you* because you're leaving.

Agents often make the mistake of relying too much on "relationship marketing." The problem with this is that when you go to sell your company, you're taking with you the company's main asset: **yourself**. To prepare for putting your agency up for sale, you should begin strengthening your company brand. If your brand is mostly you, it's time to move behind the scenes gradually in order to build up your company brand.

Think of some of the most powerful brands in the world. Do you know who the presidents of those companies are? Do you know if the CEO of the Coca Cola Company has a great personality? Do you drink Coke because of his or her personality? Of course not. And despite almost everyone in the world knowing what a Coke is, the Coca Cola Company is still out there every day, marketing and strengthening its brand awareness. Your insurance agency should do likewise.

If you'd like some free help building your company brand – a brand that puts your company front and center – check out, **We Insure Promotions** at <https://www.fyiexpress.com/we-insure-promotions.html>. Your professionally designed marketing pieces are valuable company assets.

Get your company systems in place.

Potential buyers want a turnkey operation with the systems already in place. Here are a few that you should consider implementing:

- Insurance Carriers
- Bookkeeping
- Credit card processing
- Agency Management System
- Employee Training
- Online Marketing (Google My Business, YouTube, Facebook & Website)

Increase your gross revenue.

A common formula for determining a business's market value is based on a multitude of annual revenues. Now, of course, net profit is ultimately the most important revenue to the owner, but when buying a business, size matters. Here are some tips for increasing your gross revenue:

- Read "Setting Realistic Goals for CSRs & Producers." The short book is available as a free download at <https://www.fyiexpress.com/agency-management.html>.
- Round out your accounts. The easiest way to sell more policies quickly is to work your past & current client base.
- Upsell your quotes. Don't just make them available; explicitly offer them to every client who requests a quote.

Remember: It's not only important to have high gross revenues, it's also important to show anyone interested in buying your insurance agency that your revenues are increasing.

Open a commercial insurance division.

Having a separate commercial insurance division makes your insurance agency more robust. Strategies to employ might include:

- campaigns that target owners of commercial properties.
- a company name that reveals that you specialize in commercial property inspections, such as "ABC Commercial Property Insurance agency";
- a website featuring images of commercial buildings. Images of retail stores, dentist offices, and restaurants might work well;
- a team approach to doing commercial insurance projects; and
- ads that are placed where the commercial property buyer frequents, such as commercial real estate companies and investment clubs. [We Insure Promotions](#) can target those exact consumers so that your advertising budget is spent solely on attracting the customer who will most likely want a commercial insurance quote.

Hire more producers.

When you focus on increasing gross revenue, you'll need more help to perform those additional sales and customer service tasks. Here are some tips for insurance agency owners: [Insurance Agency Management Tips](#).

FYI Tip: If you are preparing to sell your agency, hire producers who might eventually want to take over the business.

Choose the optimum places to advertise that your insurance agency is for sale, such as:

- FYI Express' [Free Classified Ads](#);
- social media;
- insurance schools; and
- the [FYI Express monthly newsletter](#) (Free to members, \$100 for non-members).

Offer your company to your own employees first.

Your employees are probably your best prospects when the time comes time to sell your company. They are already agents, and they already know your operation, your carriers, and you.

Non-Disclosure Agreements

If you are negotiating the possible sale of your insurance agency to a competitor or two, or to more than one employee separately, you may want to enter into a non-disclosure agreement. FYI Express has a sample non-disclosure agreement in this booklet that you can use.

Offer financing.

It's possible your buyer is not going to be able to pay you what you want for your insurance agency in one lump sum, especially if your buyer is an employee or group of employees. You are probably going to have to carry the note.

Here is a win-win method of providing financing: Have your buyers pay you a percentage of their gross revenue each month. This way, if they hit a slow spell, their monthly payment decreases to something more manageable for them. And during periods where they are rockin' and rollin', their monthly payment to you increases. This also has the advantage of financially incentivizing you to help them when they need it. It really is a win-win.

Collect a modest down payment.

Even though you are financing the purchase, you still want to collect a down payment upfront. You don't necessarily want it so large that your buyers have to refinance their homes, but you want it large enough so that they have skin in the game.

Lower the buyer's payments over time.

Depending on the down payment your buyers are willing to make, you may want to consider a percentage of gross revenue that is slightly higher at first, but that decreases over time until finally becoming a small monthly fee. A payment structure such as this gives you some added protection as you are collecting more of the money earlier. At the same time, it gives your buyers the feeling that they are paying down their debt to you. Here is a made-up example:

- \$XX,XXX.XX down payment.
- 5% of gross revenue for years 1, 2, and 3.
- 4% of gross revenue for years 4 and 5.
- 3% of gross revenue for year 6.
- 2% of gross revenue for years 7 through 10.
- 1% of gross revenue after year 10, forever.

Of course, you can adjust the down payment, the percentages, and the loan term to your liking. This is just an example.

To protect your buyers and yourself, dissolve your company.

Your purchase agreement should require that you legally dissolve the existing entity, be it a corporation or an LLC, and your buyers should form their own. It is fine for them to create an entity that is similar sounding to yours. This protects both you and your buyers from liability which may have been incurred by your existing agency. Thus, your agreement will likely be an asset purchase agreement. There is a sample agreement for your attorney to review in this booklet.

Collateralize the loan.

If your buyer is paying over time, you may want to relinquish ownership and control of the assets over time. Perhaps you can keep some assets in your name until certain timely payments have been made. For example, your sales agreement could stipulate that you:

- transfer ownership of the main company phone number after upon receipt of the down payment;
- maintain Admin privileges to all carriers' commission reports.

Of course, you can adjust these terms to your liking within the sales agreement. This is just an example.

Agree not to compete.

Your buyers may want – and deserve – a non-compete agreement from you so that you don't sell them your agency and then start a new one or go to work for a competitor. Give that to them.

Be on call.

If your former company needs your help from time to time, you may want to offer to be on call to come back and help out. Such arrangements should NOT have any effect on the terms of your sales agreement. That is a totally separate deal.

Get E&O Tail Coverage.

Tail coverage, also known as extended reporting coverage, is especially important when selling or closing down your insurance agency. Tail insurance covers your Errors & Omissions claims after the policy has expired.

Sssshhhh.

There's no need to alert current or past clients that your company is under new ownership. Make the transition as smooth as possible.

And finally...

Thinking about selling your insurance agency? [FYI Express](#) is here to help.

Sample Non-Disclosure Agreement for Potential Sale of Insurance Agency

Notes:

This agreement includes clauses that you may not need. Always consult qualified legal counsel before signing a legal document.

NON-DISCLOSURE AGREEMENT FOR POTENTIAL SALE OF ASSETS OF AN INSURANCE AGENCY

This is an agreement (“Agreement”) between _____ (Agency Owner) and _____ (Potential Buyer), collectively referred to in this Agreement as “the parties.” The parties are exploring a possible Asset Purchase Agreement pursuant which Potential Buyer would purchase the agency’s assets. The parties may share Confidential Information with each other as part of that process for the purpose of enabling them to make informed decisions about the possible purchase of agency’s assets. The parties want to protect their confidential information on the terms set forth in this Agreement.

This Agreement refers to the party providing Confidential Information as the “disclosing party” and refers to the party receiving the Confidential Information as the “Recipient.”

1. Confidential Information.

a. The Confidential Information that may be disclosed includes: ideas, trade secrets, existing and/or contemplated products and services, research and development, pricing, costs, profit and margin information, finances and financial projections, tax returns, accounting records, customers, potential customers, clients, marketing, and current or future business plans, information concerning future or proposed products or services, financial performance and projections, employees, contracts, strategic relationships, programs, inventions, discoveries, techniques, processes, any other information that might give any competitor of the parties a competitive advantage, and any information that would harm the parties’ business if disclosed to any third party. Except as set forth in para. 1(b), information provided by one party to the other is Confidential Information even if not identified as such when provided.

b. Confidential Information does not include information, technical data or know-how which:

- (i) is in Recipient's possession at the time of disclosure as shown by Recipient's files and records immediately prior to the time of disclosure;
- (ii) before or after it has been disclosed to Recipient, becomes part of the public knowledge or literature, not as a result of any action or inaction of Recipient;
- (iii) is approved for disclosure in writing by the disclosing party;
- (iv) is disclosed to Recipient by a third party not in violation of any obligation of confidentiality;
- (v) is independently developed by Recipient without reference to Confidential Information; or
- (vi) is required by a valid order by a court of other governmental body or applicable law.

2. Use Limitations. The recipient shall not use the Confidential Information for its own use or for any purposes except those purposes expressly set forth above. The recipient shall not use the Confidential Information to compete with the disclosing party or for any illegal purpose. The recipient agrees not to copy, alter, modify, disassemble, reverse engineer, or decompile any of the materials unless permitted in writing by the disclosing party.

3. Non-Disclosure.

a. Disclosure to Employees. The parties shall not disclose Confidential Information to any employees or agents, except those who need to know it for the purpose stated above. If Recipient provides Confidential Information to its employees or agents, Recipient shall notify those employees or agents in writing of the terms of this Agreement and require them to acknowledge in writing that this Agreement binds them.

b. Disclosure to Third Parties. The parties shall not disclose Confidential Information to any third party unless the law requires it. If a subpoena to testify or produce concerning any Confidential Information is served on a party, that party shall immediately provide a copy of the subpoena to the other party.

c. Standard of Care. The parties shall use the reasonable care in safeguarding Confidential Information against loss, theft, or inadvertent disclosure, and take all steps reasonably necessary to ensure the maintenance of confidentiality, including taking such precautions that the recipient uses to protect its own trade secrets.

d. Duty to Notify. The Recipient agrees to promptly notify the disclosing party in writing of any misappropriation or misuse by any person of such Confidential Information when Recipient becomes aware of it.

4. Third Party Information. Neither party shall communicate any information to the other in violation of the proprietary rights of any third party.

5. Return of Materials. Upon written request of a disclosing party, the Recipient shall return all Confidential Information to the disclosing party or certify in writing that the Recipient has destroyed the Confidential Information.

6. No License. Confidential Information shall remain the sole property of the disclosing party. Neither party grants the other a license to use the Confidential Information.

7. Current or Future Development. Each party understands the other may currently or in the future be developing information internally or receiving information from other parties that may be similar to Confidential Information disclosed pursuant to this Agreement. Nothing in this Agreement is a representation that a party will not develop products or services, that without violation of this Agreement, compete with the other party's products or services.

8. Remedies. Each party shall be liable for any harm caused to the other party because of any breach of this Agreement by the Recipient or its officers, directors, employees, agents, or affiliates. The parties acknowledge that a breach of this Agreement will result in irreparable injury to the disclosing party for which there will be no adequate remedy at law, and the disclosing party shall be entitled to apply for equitable relief, including injunction and specific performance, in the event of any breach or threatened breach or intended breach of this Agreement by the Recipient, without posting bond. Such remedies, however, shall not be the exclusive remedies for any breach of this Agreement, but shall be in addition to all other remedies available at law or in equity.

9. Termination / Survival. This Agreement shall govern all communications between the parties made from the execution of this Agreement to the date on which either party receives from the other written notice that subsequent communications shall not be so governed. A Recipient's obligations under this Agreement with respect to Confidential Information previously received shall continue for a period of two (2) years after termination of this Agreement.

10. No Obligation to Purchase. Neither party has an obligation to enter into an agreement for the sale of the Agency's assets. The parties agree that the exchange of information under this Agreement shall not commit either party to any present or future contractual relationship other than this Agreement.

11. Binding on Successors. This Agreement binds the parties and their successors, assigns, and representatives.

12. Severability. The invalidity of any provision of this Agreement shall not affect the validity of any other provision.

13. Not Assignable. Neither party may assign this Agreement without the written consent of the other party.

14. Waiver. Failure to invoke any right in this Agreement by either party shall not be deemed a waiver of any such right.

15. Disputes.

a. Except where a party chooses to seek solely injunctive relief, if a party has a dispute with the other party, the aggrieved party shall notify the other party in writing of the dispute in sufficient detail to allow the other party to intelligently evaluate it.

b. If the parties are unable to resolve the dispute within fourteen days after notice, they agree to participate in non-binding mediation, with each party to pay one-half the mediation costs. Neither party may sue the other for damages until they have participated in mediation.

16. Litigation / Venue / Attorney's Fees / Waiver of Jury. The exclusive venue for any legal action arising out of this Agreement shall be in the County where Agency Owner has its principal place of business. The parties waive any right to remove any such action to federal court, except where federal jurisdiction is mandatory. In any legal action arising out of this Agreement, the losing party shall pay the prevailing party's reasonable attorney's fees, expenses, and court costs. The parties waive trial by jury.

17. Governing Law. The law of the State of _____ governs this Agreement.

18. Reading; Review of Counsel. The parties represent that they have carefully read every provision of this Agreement. The parties further represent that each has had the opportunity to have qualified counsel review this Agreement.

19. Voluntary Agreement. The parties represent that each party enters into this Agreement of their own free will, free of any coercion or duress.

20. Construction. Both parties had an opportunity to have counsel review this Agreement. Therefore, if a court finds any provision ambiguous, the court shall not apply the rule of construction that ambiguities are construed against the drafter of the document.

21. Notice. Where this Agreement permits or requires that a party give notice to the other party, a party may give notice in by certified mail or by email. If notice is sent by certified mail, notice is effective three days after mailing. If a party sends notice by email, it is effective immediately if it was sent to the correct email address of the other party. A party shall promptly notify the other in writing of any change in the party's preferred mailing address or email address. Where this Agreement requires something to be in writing, a writing may include a paper document or an email.

22. Entire Agreement / Modification. This Agreement contains all the representations by each party to the other and expresses the entire understanding between the parties with respect to the transaction at issue. The parties agree that all prior communications are merged into this Agreement, and that there are no terms or conditions other than those set forth herein. No statement or promise of a party or its agents shall be binding unless reduced to writing and signed by an authorized officer that party. No modifications of this Agreement shall be binding unless they are in writing and signed by the parties.

23. Signatures / Duplicates. A party may sign this Agreement electronically. The parties may execute duplicate originals of this Agreement.

Agency Owner: _____

By: (Printed Name) _____

DATE _____

Mailing address _____

Email address _____

Potential Buyer: _____

By: (Printed Name) _____

DATE _____

Mailing address _____

Email address _____

Sample Asset Purchase Agreement to Buy/Sell an Insurance Agency

Notes

The Buyer generally will not want to purchase the Seller's LLC or corporation because the Buyer won't want the potential risk of claims against the Seller's LLC or corporation. Therefore, the Seller and Buyer typically enter into an Asset Purchase Agreement pursuant to which the Buyer acquires the assets of the Seller's LLC or corporation rather than acquiring the LLC or the corporation.

No template can address all possible situations. This template assumes a cash payment by the Buyer of the full purchase price. That is, this template does not cover a situation where the Seller is financing the purchase. In that event, the Seller would want a promissory note and an enforceable security interest in the assets being sold. The Seller would also want at least one of the owners of the entity buying the assets to personally guaranty the Buyer's obligations.

This template includes clauses that you may not need. Always consult qualified legal counsel before signing a legal document.

ASSET PURCHASE AGREEMENT

This is an Agreement (Agreement) between _____ (Seller) and _____ (Buyer). This Agreement refers to Seller and Buyer collectively as "the parties."

BACKGROUND Seller is an insurance agency located in _____ (City and State). Buyer desires to purchase all of Seller's assets so Buyer can operate an insurance agency in the same area. Buyer agrees to purchase all of Seller's assets on the terms set forth in this Agreement.

TERMS

Section 1. Purchase and Sale of Assets. Seller hereby assigns all its assets (assets) to Buyer upon execution of this Agreement. The Assets include all Assets listed on Exhibit A.

Section 2. Purchase Price and Payment. Buyer agrees to purchase the Assets for \$_____ at closing.

Section 3. Noncompete. Seller agrees not to compete with Buyer for a period of _____ years from the Closing Date. This duty applies only to the following geographical area:
_____.

Section 4. Due Diligence Review. Upon execution of a Non-Disclosure Agreement, Seller shall provide access to Buyer for Buyer's review all documents, materials and information relating to the marketing and operation of the Seller's business. Such information includes, but is not limited to, copies of all contracts, financial books, and records (including revenues, utility invoices, bank account records, payroll records, paid invoices, and tax returns), licenses, permits and other documents.

Section 5. Limited Assumption of Obligations; Indemnification.

(a) Buyer shall not, by the execution and performance of this Agreement or otherwise, assume or otherwise be responsible for any liability or obligation of any nature of Seller, or claims of such liability or obligation, matured or unmatured, whether arising out of occurrences prior to, at or after the execution of this Agreement. Notwithstanding the foregoing, after Closing, Buyer may, at its option and in its sole discretion, elect to pay any unpaid obligation of Seller incurred by Seller in connection with the Business prior to Closing, provided that Seller's third party creditor has made a claim against Buyer

with respect to such unpaid obligation or the obligation otherwise may have an adverse impact on Buyer, and Buyer shall have provided Seller with a reasonable opportunity to pay or contest the obligation to pay the same. In the event Buyer make such payment, Buyer shall have the right to seek reimbursement from Seller for all such payments. Notwithstanding the foregoing, if Buyer, in its reasonable prudent judgment determines an immediate payment is required so as not to adversely affect the operation of the Business, such notice to Seller shall not be required.

(b) Notwithstanding any investigation at any time made by or on behalf of Buyer, Seller agrees to defend and indemnify Buyer, Buyer's members, managers, officers, successors and assigns harmless from and against any and all losses, claims, causes of action, suits, demands, damages, liabilities, expenses, and costs of any kind or amount whatever (including reasonable attorneys' fees), whether matured or contingent, whether accrued or to accrue, whether known or unknown, which results, either before, on or after Closing, from:

(i) Any material inaccuracy in any representation or breach of any warranty of Seller under this Agreement or failure by Seller, under this Agreement or failure by Seller, after ten (10) days written notice, to perform and observe any term, provision, covenant, agreement, or condition under this Agreement;

(ii) Any liability of Seller not assumed by Buyer as transferee of the Assets;

(iii) Any material misrepresentation in, or any omission from any certificate or other document furnished or to be furnished by or on behalf of Seller pursuant to the terms of this Agreement; or

(iv) Any event or occurrence related to the Business happening or arising on or prior to Closing.

(c) Notwithstanding any investigation at any time made by or on behalf of Seller, Buyer agrees to defend and indemnify Seller and Seller's members, managers, officers, successors and assigns harmless from and against any and all losses, claims, causes of action, suits, demands, damages, liabilities, expenses, and costs of any kind or amount whatever (including reasonable attorneys' fees), whether matured or contingent, whether accrued or to accrue, whether known or unknown, which results, either before, on or after the Closing Date, from:

(i) Any contractual obligations of Seller assumed by Buyer pursuant to this Agreement and related to events or occurrences happening or arising after the Closing Date;

(ii) Any material inaccuracy in any representation or breach of any warranty of Buyer under this Agreement or failure by Buyer after ten (10) days written notice, to perform and observe any term, provision, covenant, agreement, or condition under this Agreement;

(iii) Any material misrepresentation in, or any omission from any certificate or other document furnished or to be furnished by or on behalf of Buyer pursuant to the terms of this Agreement;

(iv) Any event or occurrence relating to the operations of Buyer happening or arising on or after Closing.

Section 6. Representations and Warranties of Seller. Seller represents and warrants to Buyer that

(a) Authorization of Seller. Seller has all requisite power and authority to enter into this Agreement, perform its obligations hereunder and consummate the transactions contemplated hereby, and the execution and delivery of this Agreement, and any the general conveyance, assignment, bill of sale, and/or other assignment and closing documents in accordance with Section 10 hereof, and the consummation of the transactions contemplated hereby and the compliance by Seller with the terms of this Agreement do not and will not (i) conflict with or result in a breach of any term of, or constitute

with the lapse of time or delivery of notice (or both) a default under, any agreement or instrument to which Seller is a party or by which Seller or any of the Assets are bound, or (ii) result in the creation or imposition of any lien, charge or encumbrance of any nature upon any of the Assets. This Agreement constitutes a valid and binding obligation of Seller, enforceable in accordance with its terms. No consent or approval of or notice to or other action by any federal, state, or local governmental entity or agency or any other person or entity is required in connection with the execution and delivery of the Agreement or the consummation of the transactions contemplated herein.

(b) Title to the Assets. Effective as of the execution of this Agreement, Seller shall have good and marketable title to the Assets, free and clear of all liens, mortgages, pledges, encumbrances, security interest, equities, and restrictions of any nature whatsoever. This Agreement gives Buyer marketable title to the Assets, free and clear of all liens, mortgages, pledges, encumbrances, security interests, charges, and equities of any nature whatsoever as of the effective date.

(c) Litigation. There is no claim, litigation, action, suit, proceeding, investigation, or inquiry, administrative or judicial, pending or, to the best of Seller's knowledge, threatened against Seller involving the Assets, at law or in equity, before any federal, state, or local court or regulatory agency, or other governmental authority.

(d) Business Assets. No personal property used by Seller in connection with the operation of the Business is held under any lease, security agreement, conditional sales contract, or other title retention or security arrangement, or is located other than in the possession of Seller. Seller assigns to Buyer all warranties relating to the equipment.

(e) Employment Contracts. There are no employment contracts, collective bargaining agreements, pension, retirement, bonus, profit-sharing, stock option, or other plan, agreement or arrangement providing for remuneration or benefits for employees of the Business to which Seller is a party or by which Seller is bound.

(f) Liabilities. All accounts payable and other liabilities due on or before the Closing Date which might materially affect the Assets or Buyer's ability to transact business shall be paid in full on or before the Closing. Notwithstanding the foregoing, if a liability incurred by Seller prior to Closing in connection with the Business has not become due and payable as of the Closing Date and is not specifically assumed by Buyer hereunder, Seller shall promptly pay any such liability once due and payable. In the event Seller fails to pay any such liability, the amount of such liability shall be subject to Buyer's right to seek reimbursement pursuant to this Agreement.

(g) Financial Statements. Seller has provided Buyer with the last three years of tax returns for Seller's business. Seller represents they are accurate in all material respects and reflect the financial standing of Seller's practice for the applicable periods to the best of Seller's knowledge.

(h) Disclosures. Seller has disclosed to Buyer all material facts concerning the assets and the practice, and has disclosed all facts necessary to make any such disclosure to Buyer not misleading. Conduct of Business. Prior to execution of this Agreement, Seller shall conduct the operation of the Business in the ordinary course. Seller shall make no extraordinary transactions or expenditures during such period without the prior written consent of Buyer.

Section 7. Representations and Warranties of Buyer. Buyer represents and warrants to Seller that Buyer is an entity in good standing; Buyer has all requisite power and authority to enter into this Agreement and perform their obligations hereunder; Buyer has taken all action necessary to enable Buyer to execute and deliver this Agreement, acquire the Assets from Seller and otherwise carry out their obligations under this Agreement; and this Agreement constitutes the valid and binding obligation

of Buyer enforceable in accordance with its terms. Further, the execution and delivery of this Agreement, the other documents to be delivered by Buyer in connection herewith, the consummation of the transactions contemplated hereby and the compliance by Buyer with the terms of this Agreement do not and will not conflict with, result in a breach of any term of, or constitute with the lapse of time or notice or delivery of notice (or both) a default under, Buyer's Articles of Incorporation or any agreement or instrument to which Buyer is a party. No consent or approval of or notice to or other action by any federal, state, or local governmental entity or agency, or any other person or entity, is required in connection with the execution and delivery of this Agreement or the consummation of the transactions contemplated herein.

Section 8. Closing Date.

- (a) The Closing Date shall be _____, 20____. Seller and Buyer may sign this Agreement prior to that.
- (b) On or prior to the Closing Date, Seller shall deliver to Buyer:
 - (i) The Assets;
 - (ii) A current tax certificate from the county treasurer relating to the personal property to be conveyed hereunder showing that property taxes are current; and
 - (iii) Evidence reasonably satisfactory to Buyer that Seller's payroll withholding taxes owed to the Internal Revenue Service, the State of _____, and any other applicable entity have been paid in full, or arrangements therefor has been made, and that all other creditors of Seller have been paid in full. Seller shall present to Buyer originally executed releases of all liens attached to the assets as of the Closing. Seller shall also execute and deliver to Buyer at the Closing or at any time and from time to time thereafter such other and further documents and instruments of conveyance, sale, assignment, or transfer, and shall take, or cause to be taken, such other or further actions as Buyer may reasonably request to vest more fully, confirm or evidence in Buyer title to all or any part of the Assets.
- (c) The obligations of Buyer to consummate the transactions contemplated by this Agreement are subject to all representations and warranties of Seller being true on the Closing as though made at that time and Seller having performed and satisfied all covenants, agreements and conditions required by this Agreement.
- (d) The obligations of Seller to consummate the transactions contemplated by this Agreement are subject to all representations and warranties of Buyer being true on the Closing as though made at that time and Buyer having performed and satisfied all covenants, agreements and conditions required by this Agreement.
- (e) Seller's signature on this Agreement constitutes a Bill of Sale and Assignment conveying the assets to Buyer free and clear of all security interests, liens, charges, and encumbrances whatsoever.

Section 9. Covenants of Seller and Buyer.

- (a) Seller's Creditors. Seller represents and warrants that the transactions described in this Agreement have been undertaken by them in good faith, considering its obligations to any person or entity to whom Seller owes a right to payment in association with the Business, whether or not the right to payment is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured (collectively such persons with such claims are called "creditors" under this paragraph), and Seller has undertaken these transactions without any intent to hinder, delay, or defraud any such creditors, and either has disclosed in the ordinary course of business or will undertake to disclose to all such creditors associated with the Business the existence of

this transaction, and Sellers has not and will not conceal this transaction or the proceeds of this transaction from any such creditors.

Section 10. Risk of Loss. In the event the Assets shall be damaged by fire or other casualty prior to the Closing Date, this Agreement may be terminated at the option of Buyer as Buyer's sole remedy.

Section 11. Survival. Notwithstanding any investigation conducted at any time with regard thereto, all representations and warranties of Seller and Buyer in this Agreement shall survive the Closing date and the execution, delivery, and performance of this Agreement.

Section 12. No Broker. Seller and Buyer each represent and warrant to the other that the warranting party has had no dealing with any dealer, broker, or agent to entitle such dealer, broker or agent to any commission or fee in connection with the sale of the Assets to Buyer. If for any reason any such commission or fee shall become due, the party dealing with such dealer, broker or agent shall pay any such commission or fee and agrees to indemnify and save the other party harmless from all claims for any such commissions or fees and from any attorneys' fees and litigation or other expenses relating to any such claim.

Section 13. Entire Agreement. This Agreement embodies the entire agreement and understanding of the parties hereto with respect to the subject matter herein contained. All prior discussions are merged into this Agreement. There are no promises or representations other than those set forth in this Agreement.

Section 14. Binding Effect. This Agreement shall be binding upon, and inure to the benefit of the parties and their respective legal representatives, heirs, successors and permitted assigns.

Section 15. No Third-Party Beneficiaries. Nothing herein, expressed or implied, is intended or shall be construed to confer upon or give to any person, firm, corporation, or legal entity, other than the parties hereto, any rights, remedies, or other benefits under or because of this Agreement.

Section 16. Counterparts/Facsimile. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute the same instrument. This Agreement may be signed and transmitted electronically, and the parties agree that their signatures which are copies on the transmitted documents shall be binding as if they were original signatures.

Section 17. Captions. The section headings of this Agreement are inserted for convenience only and shall not constitute a part of this Agreement in construing or interpreting any provision hereof.

Section 18. Expenses of Transactions. Sellers shall pay all costs and expenses incurred by it in connection with this Agreement, including without limitation, the fees, and expenses of its professional advisors. Buyers shall pay all costs and expenses incurred by it in connection with this Agreement, including without limitation, the fees and expenses of their professional advisors.

Section 19. Waiver. No waiver of any of the provisions or conditions of this Agreement or any of the rights of a party hereto shall be effective or binding unless such waiver shall be in writing and signed by the party claimed to have given or consented thereto.

Section 20. Modification. No modifications of this Agreement shall be binding unless they are in writing and signed by the parties.

Section 21. Governing Law. The laws of the State of _____ govern this Agreement.

Section 22. Recommendation of Legal Counsel. The parties acknowledge they had the opportunity to consult with legal and tax or other counsel before signing this Agreement.

Section 23. Disputes.

a. If a party has a dispute with the other party, the aggrieved party must promptly notify the other party of the dispute in writing and provide sufficient documentation to enable the other party to intelligently evaluate the claim.

b. If the parties are unable to resolve any dispute within fourteen days of notice, they agree to participate in non-binding mediation, with each party to pay one-half the mediation costs. This is a prerequisite to the filing of any lawsuit.

Section 24. Litigation / Venue / Attorney's Fees / Waiver of Jury. The exclusive venue for any legal action arising out of this Agreement shall be in the county where Seller has its principal place of business. The parties waive any right to remove any action to federal court unless federal jurisdiction is mandatory. In any legal action arising out of this Agreement, the Court must award attorney's fees and costs to the prevailing party. The parties waive trial by jury.

Section 25. Voluntary Agreement. The parties represent that each party enters this Agreement of their own free will, free of any coercion or duress.

SIGNATURES

_____, Buyer _____ (DATE)

_____, Seller. _____ (DATE)

EXHIBIT A

Assets for Purchase

(List all assets being purchased, including the name of the business, website URL, trademarks, customer lists, etc.)