



LETTER OF INTENT

Buyer Name: _____
Buyer Company: _____
Street Address: _____
City/State/Zip: _____
Phone: _____
Email: _____

Date: _____, 20____

Seller Principal 1: _____
Seller Principal 2: _____
Seller Company: _____
Street Address: _____
City/State/Zip: _____

RE: LETTER OF INTENT TO PURCHASE BUSINESS

Dear Mr./Ms. _____,

Buyer (on behalf of themselves and, if applicable, an as yet unnamed entity) ("Buyer") desires to acquire the assets of the Business located at _____ (the "Premises") and in connection therewith propose the following transaction:

1. Asset Purchase. Seller is engaged in the business of _____

(the "Business"). Buyer intends to purchase substantially all of the assets used or usable by Seller in the Business, including, but not necessarily limited to, those assets listed on the attached Schedule 1 (the "Assets"). Buyer does not intend to assume any liabilities of the Business accrued prior to Closing, except as follows: _____.

2. Purchase Price. The purchase price, which is subject to adjustment as provided herein, shall be \$ _____, paid as follows:

- \$ _____ Deposit towards closing (Earnest Money - see paragraph 4)
\$ _____ Cash amount due at closing
\$ _____ Seller financing amount (see paragraph 3)
\$ _____ Third party financing (see paragraph 5)
\$ _____ Other: _____
\$ _____ TOTAL PURCHASE PRICE

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3. **Seller Financing.** Buyer shall execute a secured promissory note with a personal guaranty in favor of Seller subordinated to a third-party lender, if any, and with the following general characteristics:

Term: _____
Interest Rate: _____
Period of payment (e.g. monthly): _____
Amount of payment per period: _____
Security: All Assets of the Business now owned or after-acquired.
Other terms: _____

4. **Earnest Money.** At the completion of due diligence, pursuant to Section 7 below,, Buyer will place on deposit the full amount of the Earnest Money to be held in the escrow account of: _____ (“Escrow Agent”), and to be applied to the Purchase Price payable at Closing. All Earnest Money is fully refundable to Buyer upon termination or expiration of this Letter of Intent without the execution of the Definitive Agreement for any reason. The Definitive Agreement shall govern the holding and dispersal of Earnest Money upon its execution and shall provide that in the event this transaction fails to close after all contingencies have been removed or waived, without fault of the Seller, this deposit shall be paid to Seller; and shall further provide that in the event the transaction described by this Letter of Intent should fail to close through no fault of the Buyer, this deposit shall be refunded to Buyer.
5. **Third Party Financing.** Within _____ business day(s) after this Letter is executed by all parties hereto, Buyer shall apply for a loan of not less than the Third Party Financing amount at an interest rate not to exceed _____ % per year for a term not to exceed _____ years.
6. **Inventory.** The Purchase Price shall include inventory with a delivered cost to Seller of \$ _____ (“Minimum Inventory”). Buyer and Seller shall take and agree to an itemized physical count of the inventory on the day prior to the closing to determine the actual inventory and adjust the Purchase Price by the difference between the Minimum Inventory and actual inventory. An increase in Purchase Price shall be added to the Seller’s note, or in the absence of a Seller’s note, to the Buyer’s down payment. A decrease in Purchase Price shall be deducted from the cash due at closing.
7. **Due Diligence.** Buyer and Seller shall have until _____ to complete their individual due diligence investigation of the other.
8. **Closing.** The transaction shall be closed on or before _____ at a mutually agreed upon location.
9. **Non-Compete.** Seller agrees to execute and be bound by a non-compete agreement for ___ years and within a _____ mile radius of the current Business location or other: _____
10. **Training.** Seller agrees to provide training to Buyer in the operation of the Business at no additional charge to Buyer. This training shall be for at least ___ hours per day for ___ days after Buyer purchases the Business and said training shall be provided during normal business hours.
11. **Contingencies.** The obligation of the Buyer to consummate the transaction shall be expressly contingent upon each of the following being satisfied or waived (remove check mark or strike-thru and initial those provisions **not** applicable):
- a. Buyer’s obtaining the Third Party Financing on or prior to _____;

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- b. Buyer's obtaining a lease from the landlord of the Premises with reasonable and acceptable terms;
- c. Seller's having good and marketable title to the Assets, free and clear of all liens and encumbrances, except for the liens and encumbrances that Buyer agrees to assume, and Seller's having the full right and authority to transfer such Assets;
- d. Buyer's securing a satisfactory lease with the leasing company(ies) for leased assets of Seller, if any;
- e. Seller's delivering at closing a sales tax certificate from the Georgia Department of Revenue to the effect that all sales taxes from the business have been paid through the end of the month prior to the closing;
- f. Each of the parties having concluded due diligence examinations as are customarily performed in similarly structured transactions, and each party and their advisors having been satisfied with the results thereof. In connection thereof, Buyer shall be given reasonable access to the books, records, and financial statements of Seller, and Seller shall be permitted to perform a credit check upon Buyer and all guarantors;
- g. Other (attach additional pages as needed):

12. **Definitive Purchase Agreement.** The final purchase and sale agreement (the "Definitive Agreement") shall

- a. have be drafted by the Seller's or Buyer's Attorney, or Closing Agent, in compliance with Georgia statutes ("Drafting Attorney"); the costs of generating the asset purchase agreement shall be paid directly to the Drafting attorney by (check only one):

Seller Buyer Both (Seller and Buyer split the cost of the Drafting Attorney equally)
- b. contain standard seller representations and warranties concerning the accuracy of the financial statements and other matters;
- c. contain an agreement by Seller and its equity owners to jointly and severally indemnify the Buyer with respect to obligations and liabilities of Seller which are not expressly assumed by Buyer and any breach of a representation or warranty made by Seller;
- d. contain an agreement by Buyer and its equity owners, to jointly and severally indemnify the Seller with respect to (i) the operation of the Business following the closing of this Transaction, (ii) and any breach of a representation or warranty made by Buyer, and (iii) with respect to the operation of the Assets after the closing;
- e. contain a provision whereby the Seller fully assigns all of the trademarks or other intellectual property related to the Business owned by Seller or any of its principals to Buyer;

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- f. be executed by all necessary parties no later than _____ days from the date this Letter of Intent is accepted by Seller (the “Drafting Period”); and
 - g. contain a provision whereby the owners of Seller guaranty all obligations of Seller and the owners.
13. **Brokers.** The parties acknowledge that the Brokers and/or their licensed agents as listed below (each a “**Broker**”), have acted as brokers with respect to the transaction contemplated herein (and shall be entitled to a commission in accordance with Seller’s listing agreement or other agreement with Seller and/or Buyer. Moreover, Broker(s) may receive a commission, rebate, fee or other compensation for assisting in procuring leases, financing, insurance or other services on behalf of Buyer and/or Seller. Seller represents that it is not selling the Assets and the Business to Buyer based upon any representation, oral or written, by either Broker, and that Seller is solely responsible to do any and all due diligence on Buyer, and Buyer, likewise, represents that it is not acquiring the Assets or the Business based upon any representation, oral or written, by either Broker but rather by independent examination and judgment as to the prospects of the Business and the Assets. No Broker shall have any liability to either Buyer or Seller with respect to statements made by either Broker or any information provided to such party by any Broker.

Listing Broker representing the Seller: _____

Agent or Designated Agent of Listing Broker: _____

Selling Broker representing the Buyer: _____

Agent or Designated Agent of Seller Broker: _____

Transaction broker (who represents only itself): _____

Agent of Transaction Broker: _____

14. **Right to Market.** It is hereby agreed that Seller and Seller’s Broker may continue to market the Business during the Drafting Period and may entertain only “back-up” offers during this period; however, Broker shall not communicate the existence of such offers to Seller. Upon expiration of the Drafting Period, as it may be extended by agreement of the parties hereto, if Seller and Buyer have not executed a Definitive Agreement, Escrow Agent shall return the Earnest Money (less escrow expenses, if any, which must be documented), and Seller is free to accept any back-up or other offer as a primary offer.
15. **Confidentiality.** Each party will maintain in confidence all confidential information and trade secrets concerning the other party, and in that regard, shall use the same degree of care as used in the protection of its own confidential or trade secret information to prevent disclosure thereof to third parties, except and to the extent that such information: (i) was at the time of disclosure, or thereafter becomes, generally available to the public, other than by breach of this provision, (ii) was in the receiving party’s possession prior to disclosure by the disclosing party, (iii) is acquired in good faith from a third party who did not obtain it under any obligation of secrecy, or (iv) was or is developed independently within the receiving party’s organization by personnel not having access to such information.
16. **Expenses.** Seller and Buyer shall each pay their own costs and expenses in connection with this Letter of Intent and the transaction contemplated hereby, including, but not limited to, the cost of their

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respective legal counsels, and neither Buyer nor Seller will have any obligation with respect to cost and expenses incurred by the other in connection herewith.

- 17. **Legal, Tax, and Other Advice.** This Agreement is a form document provided by the Georgia Association of Business Brokers (“GABB”). Seller and Buyer understand and acknowledge that GABB (including counsel for GABB that prepared this form document) is not providing legal, tax, or any other advice to Seller or Buyer and is not warranting that the provisions of this form are suitable for the transaction contemplated by Seller and Buyer or the preferred tax treatment of the transaction contemplated by Seller and Buyer. GABB (including counsel for GABB that prepared this form document) is not providing any advice of any kind to Buyer and/or Seller. Seller and Buyer should consult their own respective legal counsel, tax professional, and/or other advisors to determine whether the provisions of this Agreement are suitable to Seller and Buyer. Seller and Buyer agree to indemnify and hold GABB (including counsel for GABB that prepared this form document) harmless from any and all claims or damages arising out of the use of this form document.
- 18. **Legal Effect.** Notwithstanding anything to the contrary contained herein, Buyer and Seller understand and agree that this Letter of Intent constitutes only an expression of intent and shall have no legal binding effect, except as to paragraphs 4, 13, 14,15, 17, and 18, which shall be binding on the parties and shall survive termination of this Letter of Intent. This letter of intent does not obligate either party to negotiate in good faith or to proceed to the completion of an agreement. The parties shall not be bound unless and until a formal agreement is executed by the parties, which must be in form and content satisfactory to each party and its counsel in their sole discretion. Neither party may rely on this letter of intent as creating any legal obligation of any kind and no third party shall have the right to rely on this letter of intent for any reason whatsoever.

This Letter of Intent shall become null and void unless accepted as indicated by your authorized signature below by 5:00 p.m. (Atlanta, GA time) on the _____ day of _____, 20_____.

Very truly yours,

_____ (Buyer 1)

_____ (Buyer 2)

Agreed to and accepted this ____ day of _____, 20_____

Owner and/or Seller’s Authorized Officer