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***BUY-SELL AGREEMENT FOR XYZ COMPANY***

(It is always good business practice to have your legal documents reviewed by an attorney familiar with the laws in your state before using for your business.)

This Buy-Sell Agreement (this "**Agreement**") is made effective as of \_\_\_\_\_, between and among \_\_\_\_\_ (the "**Company**") and each of the individuals listed on the attached **Schedule A** (each an "**Owner**," and collectively, the "**Owners**").

The Owners own all of the outstanding common stock of the Company (the "**Units**"), and desire to promote and protect their mutual interests and the interests of the Company. Therefore, the parties hereby agree as follows.

**Article I - Sales and Transfers**

1. General Transfer Restriction. No Owner (or any party acting on behalf of an Owner) may sell or transfer any of such Owner's Units, whether now owned or later acquired, except in accordance with the terms of this Agreement or by the written consent of the Company and all of the other Owners. Any attempted sale or transfer of any Units (or any interest in any Units) that violates the terms of this Agreement shall be void and shall not be binding upon, or recognized by, the Company or the Owners.

a. Sale or Transfer Defined. The phrase "sale or transfer" includes any sale, pledge, encumbrance, gift, bequest, or other transfer of any Units, whether or not the transfer would be made (i) for value, or (ii) to another Owner, or (iii) voluntarily or involuntarily or by operation of law, or (iv) during an Owner's lifetime or upon an Owner's death.

b. Exception. A sale or transfer of an Owner's Units to a trust that is wholly revocable by that Owner and for which that Owner is the sole trustee is not a prohibited sale or transfer. However, any subsequent attempted sale or transfer by the trustee of such trust shall be subject to all of the terms of this Agreement with the Owner (and not the trust) deemed as the owner of such Units.

2. Permitted Voluntary Sale or Transfer During Lifetime. Any Owner who wishes to sell or transfer such Owner's Units must first provide written notice of such intent to each of the other Owners. Such Owner (a "**Seller**") shall be deemed to have offered to sell his/her Units (the "**Offered Units**") to the other Owners. The notice must state the name

of the party (the "**Third Party Purchaser**") to whom the Seller wishes to sell or transfer the Offered Units and the terms of the proposed sale or transfer.

(end of page 1, below is a listing of the topics the rest of the document will cover in detail)

3. Involuntary Lifetime Sale or Transfer.

4. Death of an Owner..

5. Termination of Employment.

6. Option of the Company. .

Article II - Purchase Price

1. Book Value / Purchase Price.

2. Calculation by CPA.

3. Costs.

Article III - Payment Terms

1. Type of Payment.

2. The Closing.

Article IV - Endorsement of Certificates

1. Endorsement.

2. Return of Shares.

3. New Units.

Article V - Life Insurance

1. Required Policies.

2. Added Policies.

3. Premiums.

Article VI - Terminating or Amending the Agreement

1. Termination.

2. Amendment.

3. Return of Certificates.

Article VII - Continuation of Restrictions

Article VIII - Miscellaneous

1. Tax Status.

2. Binding Effect.

3. Governing Law.

4. Severability.

5. Notices.

6. Specific Performance.

7. Waiver.

8. Copies.

9. Entire Agreement.

10. Effectiveness.

SCHEDULE A

List of Owners

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Final Checklist for Buy-Sell Agreement

For: \_\_\_\_\_

**The complete document will also provide what you need to do to Make It Legal**

Who should receive copies.

When you should update.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SCHEDULE A**

List of Owners

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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## **Final Checklist for Buy-Sell Agreement**

### **Make It Legal**

\_\_\_\_\_ The Buy-Sell Agreement should be signed by a representative of the Company, perhaps the President or other primary officer. It should also be signed by each Owner. It is not necessary that the signatures be witnessed or notarized.

\_\_\_\_\_ It is advisable to have the spouse of each married Owner sign the Buy-Sell Agreement. In the case of divorce, a spouse may have rights under state law that allow the spouse to become an Owner of the Company. Therefore, it is important to have the spouses sign the Buy-Sell Agreement, and it is important to make sure that the spouses understand the terms of the agreement.

### **Attachments**

\_\_\_\_\_ The Owners should prepare a list of the applicable insurance policies to attach as Schedule B (*see paragraph V.1*) and Schedule C (*see paragraph V.2*). If no insurance policies will be obtained under paragraph V.2, simply write "none" on Schedule C.

### **Copies**

- \* A copy of the Buy-Sell Agreement should be provided to each Owner and a signed original copy should be retained by the Company.

### **When to Consult a Lawyer**

- \* A lawyer should be consulted regarding any legal questions and about the effect of the Company's state laws on the terms of the Buy-Sell Agreement.

### **Other Information**

- \* The Buy-Sell Agreement will terminate in accordance with the provisions of Article VI or by the mutual agreement of the Owners and the Company.

### **Reasons to Update**

- \* Change the terms of the Buy-Sell Agreement, such as the price, payment terms, method of funding, or events which trigger application of the agreement.

**BONUS DOCUMENTS**  
ON THE PAGES THAT FOLLOW

**CONFIDENTIALITY AGREEMENT**

**&**

**BUSINESS ENTITY PLANNING**  
**WORKSHEET**

## **CONFIDENTIALITY AGREEMENT**

This Confidentiality Agreement (this "Agreement") is made effective as of \_\_\_\_\_, between \_\_\_\_\_, of \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, of \_\_\_\_\_.

In this Agreement, the party who owns the Confidential Information will be referred to as "\_\_\_\_\_", and the party to whom the Confidential Information will be disclosed will be referred to as "\_\_\_\_\_".

\_\_\_\_\_ is engaged in \_\_\_\_\_  
\_\_\_\_\_ is engaged in \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ has requested that \_\_\_\_\_ will protect the confidential material and information which may be disclosed between \_\_\_\_\_ and \_\_\_\_\_. Therefore, the parties agree as follows:

**I. CONFIDENTIAL INFORMATION.** The term "Confidential Information" means any information or material which is proprietary to \_\_\_\_\_, whether or not owned or developed by \_\_\_\_\_, which is not generally known other than by \_\_\_\_\_, and which \_\_\_\_\_ may obtain through any direct or indirect contact with \_\_\_\_\_.

A. Confidential Information includes without limitation:

- business records and plans  
and other proprietary information.

B. Confidential Information does not include:

and any other information that both parties agree in writing is not confidential.

### **II. PROTECTION OF CONFIDENTIAL INFORMATION.**

\_\_\_\_\_ understands and acknowledges that the Confidential Information has been developed or obtained by \_\_\_\_\_ by the investment of significant time, effort and expense, and that the Confidential Information is a valuable, special and unique asset of \_\_\_\_\_ which provides \_\_\_\_\_ with a significant competitive advantage, and needs to be protected from improper disclosure. In consideration for the disclosure of the Confidential Information, \_\_\_\_\_ agrees to hold in confidence

and to not disclose the Confidential Information to any person or entity without the prior written consent of \_\_\_\_\_. In addition, \_\_\_\_\_ agrees that:

*i. No Copying/Modifying.* \_\_\_\_\_ will not copy or modify any Confidential Information without the prior written consent of \_\_\_\_\_.

*ii. Application to Employees.* Further, \_\_\_\_\_ shall not disclose any Confidential Information to any employees of \_\_\_\_\_, except those employees who are required to have the Confidential Information in order to perform their job duties in connection with the limited purposes of this Agreement. Each permitted employee to whom Confidential Information is disclosed shall sign a non-disclosure agreement substantially the same as this Agreement at the request of \_\_\_\_\_.

*iii. Unauthorized Disclosure of Information.* If it appears that \_\_\_\_\_ has disclosed (or has threatened to disclose) Confidential Information in violation of this Agreement, \_\_\_\_\_ shall be entitled to an injunction to restrain \_\_\_\_\_ from disclosing, in whole or in part, the Confidential Information. \_\_\_\_\_ shall not be prohibited by this provision from pursuing other remedies, including a claim for losses and damages.

**III. RETURN OF CONFIDENTIAL INFORMATION.** Upon the written request of \_\_\_\_\_, \_\_\_\_\_ shall return to \_\_\_\_\_ all written materials containing the Confidential Information. \_\_\_\_\_ shall also deliver to \_\_\_\_\_ written statements signed by \_\_\_\_\_ certifying that all materials have been returned within five (5) days of receipt of the request.

**IV. RELATIONSHIP OF PARTIES.** Neither party has an obligation under this Agreement to purchase any service or item from the other party, or commercially offer any products using or incorporating the Confidential Information. This Agreement does not create any agency, partnership, or joint venture.

**V. NO WARRANTY.** \_\_\_\_\_ acknowledges and agrees that the Confidential Information is provided on an AS IS basis. \_\_\_\_\_ MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE CONFIDENTIAL INFORMATION AND HEREBY EXPRESSLY DISCLAIMS ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL \_\_\_\_\_ BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH

OR ARISING OUT OF THE PERFORMANCE OR USE OF ANY PORTION OF THE CONFIDENTIAL INFORMATION. \_\_\_\_\_ does not represent or warrant that any product or business plans disclosed to \_\_\_\_\_ will be marketed or carried out as disclosed, or at all. Any actions taken by \_\_\_\_\_ in response to the disclosure of the Confidential Information shall be solely at the risk of \_\_\_\_\_.

**VI. LIMITED LICENSE TO USE.** \_\_\_\_\_ shall not acquire any intellectual property rights under this Agreement except the limited right to use set out above. \_\_\_\_\_ acknowledges that, as between \_\_\_\_\_ and \_\_\_\_\_, the Confidential Information and all related copyrights and other intellectual property rights, are (and at all times will be) the property of \_\_\_\_\_, even if suggestions, comments, and/or ideas made by \_\_\_\_\_ are incorporated into the Confidential Information or related materials during the period of this Agreement.

**VII. GENERAL PROVISIONS.** This Agreement sets forth the entire understanding of the parties regarding confidentiality. Any amendments must be in writing and signed by both parties. This Agreement shall be construed under the laws of the State of \_\_\_\_\_. This Agreement shall not be assignable by either party, and neither party may delegate its duties under this Agreement, without the prior written consent of the other party. The confidentiality provisions of this Agreement shall remain in full force and effect after the effective date of this Agreement.

Information Owner:

\_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_

Recipient:

\_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_

## ***BUSINESS ENTITY PLANNING WORKSHEET***

***Prepared on*** \_\_\_\_/\_\_\_\_/\_\_\_\_

Business Name: \_\_\_\_\_  
Trade Name (if any): \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_  
Phone: \_\_\_\_\_ Ext.: \_\_\_\_\_

**BUSINESS ACTIVITIES:** This business is an existing business or this is a new business, with approximately \_\_\_\_\_ employees and annual revenues of approximately \$0.00.

The primary activities of the business can be described as follows:

\_\_\_\_\_.

**DISTRIBUTIONS OF THE BUSINESS' INCOME.** The owners expect to retain/distribute most of the income of the business within the business to help finance future growth.

**The following factors are NOT of great importance to the owners of the business:**

**LIABILITY PROTECTION FOR OWNERS.** Due to the nature of the business and/or the availability of insurance coverage, there is little risk of business liabilities threatening the owners' personal assets.

**FRINGE BENEFITS.** The deductibility of the costs of the owners' fringe benefits is not particularly important to the owners.

**FREE TRANSFERABILITY OF OWNERSHIP INTERESTS.** It is not of concern to the owners (or it may even be preferred) that the remaining owners be required to approve an owner's transfer of interest in the business.

**CONDUCT BUSINESS IN MULTIPLE STATES.** It is not anticipated, or not of great concern, that business will be conducted in more than one state, so the owners are not particularly concerned about uniform interstate treatment if an LLC is chosen.

**FISCAL YEAR.** The owners are satisfied with a calendar year-end.

**UNINTERRUPTED EXISTENCE.** It is acceptable to the owners that a vote-of-continuance may be required upon the death of a co-owner.