

[DATE]

_____ [Seller's Name]
_____ [Address]

Re: Letter of Intent to Purchase Business

Dear [Seller] _____:

Our office represents a prospective buyer of your business. This letter is an offer to enter into a letter of intent for the purchase of that business known as _____, referred to in this letter as the "Business." If accepted and signed by you, the Seller, this letter of intent will be a binding agreement to enter into a more complete contract for the purchase of the Business on the terms and conditions set forth herein, with the addition of other terms which are as yet undetermined. It will also constitute an agreement by the you not to negotiate with any other prospective buyers regarding the sale of the Business, and an agreement by the Buyer not to negotiate with any other prospective sellers regarding the purchase of their business, or to seek employment elsewhere. In addition, this letter of intent shall constitute an agreement by the Buyer to keep all financial information and all other aspects of the negotiations confidential.

Some of the basic terms of the purchase will be as follows:

Structure. The basic structure of the transaction will be a purchase of all the _____ [assets/stock] of the Business from the Seller, such that _____ [Buyer] will become the sole owner of the Business. It is possible that it may be advantageous for the Buyer to form a new corporation to buy the assets, and he/she needs to retain the option to do that. The form of the transaction can be worked out prior to signing a formal contract.

Consulting by Seller. It is intended that a consulting agreement between Seller and Buyer will be entered into at the same time the contract is signed. Seller will agree to work for the Business for a period of ____ [60] days, without compensation, primarily for the purpose of training the Buyer in various aspects of the Business and introducing the Buyer to customers/clients of the Business.

Employment of Seller. The Seller will be employed by the Buyer for a period of _____ years to work for the Business for approximately \$_____ per hour/month after the initial consulting/training period. An employment agreement will be signed at the time of signing the formal contract.

Purchase Price and Terms. The purchase price will be \$_____, plus the cost of the inventory, expected to be about \$_____.

Payment of Purchase Price. Buyer has made a \$_____ cash deposit with _____. An additional \$ _____ deposit will be made at the time of signing a formal contract. An additional \$ _____ down payment will be paid at closing. The remaining \$_____ will be paid in the form of a note fully amortized over ____ years to be secured by a security interest in the assets of the Business.

Covenant Not to Compete. Seller agrees that he/she will not at any time within the covenant period of _ years immediately following the closing date, directly or indirectly engage in, or have any interest in any person, firm, corporation, or business (whether as an employee, officer, director, partner, agent, security holder, creditor, consultant, or otherwise) that engages in any activity in Monterey County, California, which is the same as, similar to, or competitive with any activity now engaged in by the Business.

Business Name Exclusive. Transfer of the name " _____ " shall be a part of the transaction. Seller agrees either to amend the Articles of Incorporation of the Business to change its name, or to dissolve the Business, so that the Buyer may amend the Articles for their new corporation to use the name, if they desire. (This provision does not apply in a sale of stock.)

Inventory Walk Through. The Buyer together with the Seller shall conduct an inventory valuation the day before closing. The value of each item or group of items shall be the lower of the cost or market value, determined not less than 10 days prior to closing.

Contract for Sale of Business. The purchase shall be made pursuant to a Contract for Sale of Business drafted by an attorney and reasonably acceptable to the Buyer and Seller, including but not limited to appropriate representations and warranties of the Seller.

Preservation of Goodwill. Both parties agree to maintain the goodwill of the Business during the pendency of this transaction and thereafter by refraining from saying or doing anything that would tend to injure the relationship of the Business with its employees, vendors, and customers. Further, neither party will injure the Business by disclosing or misappropriating any trade secrets or proprietary information of the Business. All assets of the Business, both tangible and intangible, will be transferred to Buyer, except:

(1)

(2)

(3)

Conditions. In addition to the usual and customary conditions to closing a sale of assets (such as clearances from the Board of Equalization, the Monterey County Tax Collector, and the Employment Development Department), this sale will be conditioned on:

(1) Buyer receiving suitable financing, unless a commitment is received prior to the time the agreement is signed, the Seller is carrying a portion of the purchase price in the form of a note, or the deal consists of all cash to Seller.

(2) Either (a) the landlord consenting to the assignment of the lease, or (in the event the current lease term, including options, is less than one year) on the Buyer and the landlord entering a mutually acceptable new lease.

- (3) Buyer's review of all financial records of Seller for the last three years.
- (4) Buyer's review and approval of a lien search of Seller's assets.
- (5)

Date of Signed Contract. Both parties agree to use their best efforts to have a signed contract for the purchase of the Business within _____[30] days.

Date of Closing. The date of closing is expected to be approximately _____ [45] days from the signing of the formal contract. Possession of the Business shall be transferred at the time of closing. Until closing, all benefits and obligations accruing to the Business shall belong solely to the Seller.

Prorations. All income, expenses, rent, yellow pages advertising, all obligations assumed, overhead, and other items will be prorated as of the date of closing.

Term. The term of this agreement is _____ [90] days, after which time (unless the term is extended by mutual agreement or a formal contract is signed) neither party will be bound by the obligations set forth herein other than the provisions regarding confidentiality, as set forth below.

Broker's Commission. Seller acknowledges he/she is represented by _____, and hereby confirms his/her agreement to pay a commission in the amount of _____ [10%] of the selling price at the close of escrow.

Buyer's Good Faith. Buyer agrees to pursue negotiations for the purchase of the Business, and to refrain from negotiating or otherwise pursuing the purchase of all or any part of any other business while this letter of intent is in effect, unless this agreement is rescinded by mutual written consent or expires according to its terms.

Seller's Good Faith. Seller agrees to pursue negotiations for the sale of all the assets of the Business to Buyer, and agrees not to pursue the sale of part or all of the assets of the Business to any other person or entity during the term of this agreement, unless this agreement is rescinded by mutual written consent or expires according to its terms.

Letter of Intent Not Substitute for Contract. Buyer and Seller agree that this letter of intent is not intended to be a substitute for a formal contract for purchase and sale of the Business. Each party is directed to take this letter of intent to a competent business attorney for legal advice and drafting of the formal contract containing the terms set forth herein.

Confidentiality of Information. Certain financial information regarding the Business will be given to Buyer in the course of the negotiations leading to a signed agreement, and in the period between the signing of an agreement and the closing of the sale. Buyer agrees this confidential information constitutes valuable

property of the Business and that he/she will not disclose any of such information to anyone except, of course, in discussing the transaction with his/her attorney, accountant, or other business advisors.

Attorney's Fees. The prevailing party in any action or proceeding arising from the enforcement of any of the binding portions of this letter of intent shall be entitled to recover reasonable attorney's fees, in addition to any other remedy to which he/she or it is otherwise entitled.

Intent to be Binding. The parties agree this letter of intent is binding as to the terms and conditions set forth herein, and understand that said terms and other terms will be contained in the formal contract to be executed. The parties agree to execute a formal contract incorporating these terms, changed terms (if agreed to by the parties), and other additional terms.

Liquidated Damages. If Buyer fails to complete said purchase as herein provided by reason of any default of Buyer, Seller shall be released from the obligation to sell business to Buyer. Seller shall retain the deposit as his/her liquidated damages, understanding that it would be impractical or extremely difficult to fix the actual damages suffered because of such default. The parties agree that the amount paid by Buyer as a deposit constitutes a reasonable estimate and agreed stipulation of such damages.

If the above terms are acceptable to you, please execute and return to me the enclosed copy of this letter.

Sincerely,

The above terms accurately set forth our agreement to enter into a binding letter of intent.

SELLER:

Dated: _____

Signature

Print Name

BUYER:

Dated: _____

Signature

Print Name