

BUSINESS PURCHASE AND SALE AGREEMENT

This Business Purchase and Sale Agreement (this “**Contract**”) is dated as of _____, and is by and between _____, with an address of _____ (“**Buyer**”), and _____, a _____, with an address of _____ (“**Seller**”).

RECITALS

WHEREAS, Buyer and Seller hereby agree that, upon the closing of the transactions set forth in this Contract (the “**Closing**”) and the other terms and conditions set forth herein, Seller shall sell and assign to Buyer, and Buyer shall purchase and acquire from Seller, all assets related to and used in connection with Seller’s business known as _____ (the “**Business**”), including without limitation the tangible and intangible assets identified on Exhibit A hereto (“**Assets**”).

WHEREAS, the Assets conveyed hereunder do not include Seller’s assets identified in Exhibit B hereto (the “**Excluded Assets**”).

NOW THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **PURCHASE PRICE:** The purchase price for the purchase and sale of the Business hereunder is \$ _____, to be paid in US Dollars (the “**Purchase Price**”).

2. **CLOSING DATE:** Buyer and Seller hereby agree to execute any and all documents reasonably necessary to close this transaction on _____ (the “**Closing Date**”). Any extension of this Closing Date must be approved in advance in writing by Buyer and Seller. The parties agree to close this transaction by electronically sending their respective executed counterparts of all documents reasonably requested to be executed as part of the transaction contemplated by this Contract to one another, and thereafter:

Buyer shall remit to Seller, by wire transfer, payment in full of the Purchase Price on the Closing Date;

OR

on the Closing Date, Buyer shall remit to Seller cash in the amount of \$ _____ and a promissory note payable to Seller in the amount of \$ _____. In the event a portion of the Purchase Price shall be paid by a



promissory note, the parties shall agree on the terms of such promissory note (including, without limitation, the interest rate, maturity date and amortization thereunder) prior to the Closing.

3. CLOSING DELIVERABLES: In connection with the Closing, Seller shall deliver to Buyer (whether directly or through counsel) the following documents and instruments, duly executed and acknowledged as appropriate: (a) the Bill of Sale with respect to the purchase and sale of the Assets; (b) the Assignment of Intangible Personal Property; (c) if applicable, evidence of Seller's approval of this transaction, including appropriate Board and shareholder resolutions; and (d) such other document and instruments as may reasonably be requested or required to effectuate the transactions contemplated herein. Following the Closing, Buyer shall be responsible for taking all actions necessary to register such assignments with any governmental authorities as well as the costs of such registrations and filings.

4. SELLER'S REPRESENTATIONS AND WARRANTIES. Seller hereby represents and warrants to Buyer as of the date hereof as and of the Closing Date, that:

(a) Seller has good and marketable title to the Assets on the date hereof and shall have good and marketable title as of the Closing Date, in each case free and clear of all claims, liens, and encumbrances. Notwithstanding anything to the contrary contained in this Contract or otherwise, Seller shall be obligated to remove (regardless of whether Buyer has objected thereto) all liens, encumbrances, lienholders, lenders or lessors on Assets, as well as any UCC filings, tax liens, judgments, and other monetary liens or encumbrances, it being the intent of the parties that the Assets shall be conveyed to Buyer free and clear of all monetary liens and encumbrances whatsoever, and in no event shall any such monetary liens or encumbrance be deemed a permitted exception to title or otherwise the responsibility of Buyer hereunder.

(b) No party has any purchase option or right of first refusal with respect to the Assets;

(c) The intellectual property used in connection with the Business does not infringe upon any design, patents, copyright, trade secrets, or other intellectual property rights of any third party, and Seller has not received and is not aware of any demand, claim, cease and desist letter or other similar claim or threat, whether to Seller or to Seller's predecessor in title or to others, alleging actual or potential infringement by the Intellectual Property;

(d) There is no litigation or claim pending, or to Seller's knowledge, threatened against the Business or the Assets.

Except as otherwise expressly provided herein, Seller makes no representation or warranty, whether express or implied, and Buyer is purchasing the Business on an as-is basis.

5. BUSINESS TRADE NAME: Seller hereby grants Buyer, effective as of the Closing, all right, title and interest in and to the name _____ and any variations thereof, and all logos and trade dress associated therewith. Seller hereby waives any rights thereto, and shall not directly or indirectly, after the Closing, make use of any such name or logo. Within five (5) days following the Closing, and at Seller's sole cost and expense, Seller shall make all filings necessary to change its fictitious, "dba" or trade name to a name unrelated to the Business.



6. ACCOUNTS RECEIVABLE: Unless otherwise agreed by the parties in writing, the accounts receivable of the Business for work done or goods sold prior to and including the date of Closing (hereinafter, “Seller's Accounts Receivable”) shall remain the property of Seller and shall not be conveyed to Buyer hereunder. Buyer will forward to Seller payments received by Buyer with respect to Seller's Accounts Receivable and will cooperate with Seller in providing all correspondence or other documents received by Buyer with respect to Seller's Accounts Receivable and will otherwise reasonably cooperate with Seller (at no out-of-pocket cost to Buyer) to enable Seller to collect Seller's Accounts Receivable.

7. ACCOUNTS PAYABLE; NO OTHER ASSUMED LIABILITIES: Except as otherwise provided in this Section, Seller hereby represents and warrants to Buyer that all outstanding liabilities of the Business shall be paid in full on or before the Closing, and Buyer shall not assume or have any responsibility with respect to any liability of Seller whatsoever, whether related to the Business or not, whether incurred prior to, at or after the Closing, whether such item or matter is foreseen or unforeseen. Exceptions:

8. INDEMNIFICATION: (i) Seller shall and does hereby agree to indemnify, defend, and forever hold Buyer harmless of and from any and all debts, claims, actions, losses, liabilities, damages, and attorney's fees due to breach of a Seller representation or warranty herein, or existing or that may arise from or be related to Seller's operation and ownership of the Assets and the Business or that relate to any time prior to the Closing. (ii) Buyer shall and does hereby agree to indemnify, defend and forever hold Seller harmless of and from any and all debts, claims, actions, losses, liabilities, damages and attorney's fees, due to breach of a Buyer covenant, representation or warranty herein, or existing or that may arise from or be related to Buyer's operation and ownership of the Assets and the Business or that relate to any time after the Closing.

9. COVENANT NOT TO COMPETE:

As an inducement to Buyer to enter into this Contract and in consideration of the amounts due hereunder, Seller agrees that, for a period of _____ months from and after the Closing (the “Restricted Term”), Seller will not, directly or indirectly, own, invest in, lend money to, acquire or hold any interest in, render services to, accept employment with, act as agent for, or otherwise engage in any business in competition with the Business, whether throughout the United States of America or in any online or eCommerce platform. Seller acknowledges that any remedy at law for breach of this covenant would be inadequate and that Buyer will be entitled to injunctive relief to enforce this Section, in addition to any other legal remedies available to Buyer for such breach of this Section.

The parties agree that there is no non-compete covenant as part of this transaction.



10. LOSS OR DAMAGE: In the event of any loss or damage to the Assets at any time prior to Closing, the risk of loss shall be upon Seller. Immediately from and after Closing, all risk of loss or damage with respect to the Business and the Assets shall be upon Buyer.

11. BUSINESS DEPOSITS: Any and all amounts currently on deposit for the benefit of the Business for utility services, leases and insurance (if any) are and shall remain the sole property of Seller and are not included in the Assets being conveyed hereunder.

12. OPERATION OF THE BUSINESS BEFORE CLOSING: Seller hereby agrees, from the date of execution of this Contract through the Closing, to carry on the business activities and operations of the Business diligently and in substantially the same manner as has been customary in the past, and Seller shall not dispose of, remove, encumber or otherwise modify any of the Assets in any manner whatsoever, without the express prior written consent of Buyer.

13. BUSINESS RECORDS: At Closing, Seller shall deliver copies of all customer lists, customer information, account information, records, and any other documents and instruments pertinent to the operation of the Business which Seller has in its possession. Such records shall include copies of those documents necessary to conduct business with suppliers and customers of the Business. Seller shall provide to Buyer administrative access, including applicable passcodes and log-in instructions, to the Business record-keeping system and all other applicable systems.

14. POST-CLOSING CONSULTING:

Seller and/or _____ (Seller's principal) agree to spend, at no added cost to Buyer, a period of _____ days, during normal business hours exclusive of holidays and Sundays after the Closing Date, to assist Buyer and employees in the orderly transfer of the Assets and provide training about website(s) and any other aspects of the Business and the Assets as Buyer deems necessary.

There shall be no post-closing consulting requirements.

15. GOVERNING LAW: This contract shall be governed by, and construed in accordance with, the laws of the State of _____.

16. WAIVER: No waiver of any provisions of this Contract shall be effective unless it is in writing, signed by the party against whom it is asserted, and any such waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing waiver.

17. PARAGRAPH HEADLINES: Captions and paragraph headlines in this Contract are for convenience and reference only and do not define, describe, extend, or limit the scope or intent of this contract or provision herein.



18. BINDING EFFECT: This Contract shall bind and inure to the benefit of the parties hereto and their respective successors, heirs, successors, and assigns. The parties acknowledge that this Contract, including all covenants, representations, warranties, and agreements, shall survive the Closing of this transaction. No party may assign either this Agreement or any of its rights, interests, or obligations hereunder without the prior written approval of the other party, which shall not be unreasonably withheld.

19. ENTIRE AGREEMENT: Time is of the essence. This Contract constitutes the entire agreement and understanding of the parties with respect to the subject matter hereof, and all prior and contemporaneous understandings and agreements not expressly provided herein shall have no force or effect. This Contract cannot be modified except in writing executed by all parties.

20. NOTICES: All notices or other communications required or permitted to be sent by either party shall be in writing and shall be sent (i) by United States Postal Service, postage prepaid, certified, return receipt requested; (ii) by any nationally known overnight delivery service; (iii) by courier (iv) in person; or (v) by electronic mail. All notices shall be deemed to have been given forty-eight (48) hours following deposit in the United States Postal Service or upon personal delivery if sent by personal delivery, overnight delivery service, or courier, and upon acknowledgement of receipt if sent by electronic mail. All notices shall be addressed to the parties at their respective addresses above, or as otherwise directed by a party in writing to the other party hereto from time to time.

21. COUNTERPARTS: This Contract and any documents executed pursuant to this Contract may be executed and delivered in one or more counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument.

IN WITNESS WHEREOF, the undersigned execute this Contract as of the date set forth above

Seller:

Name: _____

Title: _____

Buyer:

Name: _____

Title: _____





Exhibit A – List of Assets



Exhibit B – List of Excluded Assets

