

## BUY-SELL AGREEMENT

This agreement is made as of the \_\_\_\_ day of \_\_\_\_\_, by and between \_\_\_\_\_ [NAME OF CORPORATION], a \_\_\_\_\_ [STATE OF INCORPORATION] corporation (the "corporation"), and \_\_\_\_\_ [NAMES OF ALL THE SHAREHOLDERS](collectively, "Shareholders"; individually, a "Shareholder").

### Recitals

WHEREAS, the Shareholders are or will be the principal executive officers and sole shareholders of the Corporation, and

WHEREAS, the parties in furtherance of the interests of the Corporation desire to establish consistent and harmonious policies and to assure continuity of management by persons who have a propriety interest in the Corporation and continuity of stock ownership by persons licensed to practice the profession of \_\_\_\_\_ [SPECIFY].

NOW, THEREFORE, in consideration of the promises and mutual covenants contained below, the undersigned do agree with each other as follows:

### Sale of Shares

1. On the Purchase Date established in this agreement, on the happening of any of the following events: (a) the death of a Shareholder, (b) the disqualification of a Shareholder from the practice of \_\_\_\_\_ [TYPE OF PROFESSIONAL PRACTICE], (c) the permanent disability or incapacity of a Shareholder rendering him or her unable to practice \_\_\_\_\_ [TYPE OF PROFESSIONAL PRACTICE], or (d) the complete cessation of employment of a Shareholder by the Corporation for any other reason, the Corporation shall purchase and the Shareholder or the estate of the deceased Shareholder shall sell to the Corporation at the price set forth in Paragraph 11, all of the shares in the Corporation legally or beneficially owned by the Shareholder or by his or her estate at the time of the occurrence of any of the above events.

### Transferability of Shares

2. To assure the Corporation the benefit of this Agreement, no Shareholder or the Shareholder's heirs, executors, or administrators shall sell, exchange, give, transfer, pledge, hypothecate, or otherwise dispose of any share in the Corporation or any interest in the shares except as provided in this Agreement.

### Method of Sale

3. After the occurrence of any of the events specified in Paragraph 1, and prior to the Purchase Date, the Shareholder whose shares are being sold pursuant to this Agreement or the Shareholder's estate shall deliver to the Corporation the certificates for the shares accompanied by an assignment and power of attorney in blank or properly endorsed for transfer, and the Corporation shall pay the

Shareholder or the Shareholder's estate the price set forth in Paragraph 11. Thereafter, the Corporation shall cause the purchased shares to be retired.

#### Terms of Payment on Death of Shareholder

4. If the Shareholder has died, the terms of payment shall be as follows: If the proceeds of any life insurance policy on the life of the deceased Shareholder owned by the Corporation are equal to or exceed the purchase price of the shares of the deceased Shareholder, the purchase price shall be paid in cash on the Purchase Date. If the proceeds of any life insurance are less than the purchase price, the total proceeds from the insurance on the deceased Shareholder's life shall be paid on the Purchase Date to the deceased Shareholder's estate, plus such additional amount of cash, if any, as shall be required to make the payment to the deceased Shareholder's estate equal to at least one-fifth (1/5th) of the purchase price, and the balance of the purchase price shall be paid in sixty (60) equal monthly installments beginning one (1) year after the date of the first payment. The obligation to pay shall be evidenced by the Corporation's promissory note providing for the payment of the balance in sixty (60) equal monthly installments commencing one (1) year from the Purchase Date bearing interest at the rate determined pursuant to Paragraph 15 on the unpaid balance. The obligation to pay shall be personally guaranteed by the surviving Shareholder(s). The Corporation shall have the right to prepay any promissory note, in whole or in part, at any time without penalty.

#### Terms of Payment on Occurrence Other Than Death

5. If some event specified in Paragraph 1 other than death of a Shareholder has occurred, the purchase price shall be paid over a period of years, evidenced by the Corporation's promissory note providing for the payment of the purchase price in ten (10) equal annual installments commencing one (1) year from the date of delivery of the certificates to the Corporation and bearing interest, from the date of delivery, at the rate determined pursuant to Paragraph 15 on the unpaid balance. Payment of the note shall be personally guaranteed by the remaining Shareholder(s). The Corporation shall have the right to prepay any promissory note, in whole or in part, at any time without penalty.

#### Consolidation of Debts

6. On the purchase by the Corporation of shares from a Shareholder or a Shareholder's estate in accordance with this Agreement, the Corporation shall also be required to and shall proceed as follows with respect to any indebtedness of the Corporation to the Shareholder:

(a) As to all such indebtedness to the Shareholder, whether or not evidenced by promissory notes or other evidence of indebtedness of the Corporation, the Corporation shall deliver to the Shareholder or the estate of a deceased Shareholder (and thereupon any outstanding promissory notes or other evidences of indebtedness of the Corporation to said Shareholder shall be canceled) its nonnegotiable promissory note in the principal amount equal to the indebtedness, including any accrued interest thereon.

(b) The nonnegotiable promissory note shall be payable to the order of the Shareholder or the administrator or executor of a deceased Shareholder's estate, shall be dated as of the date ninety (90) days after the occurrence of the event causing sale of the Shareholder's shares, shall be payable in five (5) equal annual installments, and shall bear interest at the rate determined pursuant to Paragraph 15 on the unpaid balance from the date of the event causing sale of the Shareholder's shares. The first installment shall be due and payable one (1) year from the date of execution of the note. The Corporation shall have the right to prepay the note, in whole or in part, at any time without penalty. Payment of the note shall be personally guaranteed by the remaining Shareholder(s).

#### Subordination

7. Each promissory note issued and delivered by the Corporation pursuant to this Agreement at a time when there is an outstanding debt of the Corporation that requires subordination shall contain a subordination clause in the form required by the terms of any agreement with the Corporation's creditors.

#### Right of First Refusal

8. If a Shareholder should desire to dispose of any of his or her shares in the Corporation and no event specified in Paragraph 1 of this Agreement has occurred, the Shareholder shall first offer, in writing, to sell all of the stock to the Corporation at a price determined in accordance with the provisions of Paragraph 11. Any shares not purchased by the Corporation within thirty (30) days after receipt of the offer in writing shall be offered at the same price to the other Shareholder(s) who shall have the right to purchase all or any portion of the shares offered for sale. If more than one of the remaining Shareholders agree to purchase the shares, then unless those Shareholders who desire to purchase the shares agree otherwise, the shares shall be purchased pro rata on the basis of the number of shares of the Corporation owned by each of those Shareholders who desire to purchase the Shares.

#### Sale to Licensed Professional Only

9. If the shares offered pursuant to Paragraph 8 are not purchased by the Corporation or the remaining Shareholder(s) within sixty (60) days of the receipt of the offer, the Shareholder desiring to sell shares may sell them to any other person licensed to practice the profession of \_\_\_\_\_ [SPECIFY PROFESSION FOR WHICH CORPORATION WAS FORMED], but shall not sell them without giving the Corporation and the remaining Shareholder(s) the right to purchase the remaining shares at the price and on the terms offered to the other person.

#### Terms of Payment

10. The terms of payment by the Corporation for any shares offered by the offering Shareholder pursuant to Paragraph 8 shall be as follows:

(a) Terms of payment by the Corporation shall be payable at the price set forth in Paragraph 11 on the following terms: Twenty percent (20%) of the purchase price

shall be payable in cash on delivery of the share certificates to the Corporation, and the balance shall be payable in sixty (60) equal monthly installments commencing one (1) year from the date of delivery of the share certificates to the Corporation.

(b) Should any Shareholder or Shareholders exercise an option to purchase, the purchase price of the shares shall be determined by Paragraph 11 and shall be paid on the following terms: Twenty percent (20%) of the purchase price shall be payable in cash on delivery of the share certificates to the purchaser and the balance payable in sixty (60) equal monthly installments commencing one (1) year from the date of delivery of the share certificates to the purchaser.

(c) The portion of any purchase price not paid in cash shall be evidenced by the promissory note(s) of the purchasing Corporation or Shareholder(s), bearing interest at the rate determined pursuant to Paragraph 15 on the unpaid balance. Payment of the Corporation's promissory note shall be personally guaranteed by the remaining Shareholder(s). The purchasing Corporation or Shareholder(s) shall have the right to prepay the note(s), in whole or in part, at any time without penalty.

#### Purchase Price

11. The purchase price to be paid for the interest of a Shareholder, which is required to be determined pursuant to this Paragraph, shall be calculated as follows: The value of each share of stock in the Corporation shall be equal to its book value [IF DESIRED, ADD: plus an amount equal to (1) \_\_\_\_\_(PERCENTAGE OF ACCOUNTS RECEIVABLE USED TO COMPUTE VALUE OF SHARES) percent of the accounts of the Corporation as of the end of the most recently completed fiscal year that precedes the event causing the sale of the shares, divided by (2) the number of outstanding shares of the Corporation as of the Purchase Date]. In no event, however, is the value of a deceased Shareholder's interest to be less than the amount of insurance, if any, on the deceased Shareholder's life owned by the Corporation for the specific purpose of purchasing a deceased Shareholder's interest. For purposes of this Agreement the valuation date shall be the last day of the fiscal quarter preceding the month in which the offer to sell is submitted by the Shareholder or the last day of the fiscal quarter preceding the month in which some event specified in Paragraph 1 occurs.

#### Life Insurance

12. Any life insurance on the lives of the Shareholders carried by the Corporation for the specific purpose of purchasing a deceased Shareholder's interest shall be carried in amounts proportionate to their share holdings in the Corporation. Any excess of the purchase price paid for the stock of a Shareholder who has died or who is permanently disabled or incapacitated over the book value of the stock is attributable to the good will of the Corporation.

#### Computation of Book Value

13. The term "book value" for the purpose of this Agreement means the value of the capital stock of the Corporation as of the valuation date, computed as follows:

(a) As of the valuation date, an inventory shall be taken of the property, assets (excluding, however, accounts receivable), and liabilities of the Corporation.

(b) All sums owing to the Corporation shall be valued as they are carried gross on the books; provided, however, that accounts receivable shall not be taken into account.

(c) Furniture, fixtures, equipment and other fixed assets on hand at the value at which the same shall appear on the books of the Corporation, being original cost less depreciation.

(d) Good will, trademarks and trade names, shall be deemed of no value unless they have been acquired and paid for in cash, and in that event, the sum shall be computed at the amount paid therefor.

(e) Federal income taxes payable on operating profits for the year up to the date of valuation shall be apportioned. All state and other taxes and assessments that are unpaid shall be apportioned.

(f) Outstanding contracts with suppliers shall be deemed of no value for the purpose of this inventory.

(g) The usual accounting practices employed by the accountant auditing the books of the Corporation shall be employed in the determination of the foregoing values. In the event of a disagreement between the parties, one arbitrator shall be selected by the selling Shareholder and one arbitrator shall be selected by the purchaser or purchasers. In the event the arbitrators cannot agree, then they shall select a third arbitrator, whose decision shall be final and binding in this connection.

(h) Insurance policies on the life or lives of Shareholders owned by the Corporation and in which it is named as a beneficiary, shall be valued at the cash surrender value of such policies as of the valuation date.

(i) Except where specifically otherwise provided in this Agreement, "book value" shall be defined to be the value of the stock of the Corporation after deducting the sum of all the liabilities of the corporation from the sum of all the assets and property of the Corporation as shown on the books of the Corporation, except that the capital stock of the Corporation shall not be deducted as a liability, nor shall any surplus or undivided profits or any reserve fund representing the surplus or undivided profits be deducted. The book value of any single share of capital stock of the Corporation shall be its proportionate share of the book value of all the shares of the Corporation outstanding.

(j) In the event the Corporation owns life insurance designated as "key man insurance," that insurance shall be fully available to the Corporation for its use.

#### Purchase Date

14. The Purchase Date of a deceased Shareholder's shares shall be \_\_\_\_\_[SPECIFY TIME, e.g., 90 days] following the death of a Shareholder. The Purchase Date of a Shareholder's shares sold by reason of the occurrence of any event specified in Paragraph 1 other than the death of a Shareholder shall be \_\_\_\_\_[SPECIFY TIME, e.g., thirty (30) days] after the date of the event precipitating the sale.

#### Interest Rate

15. The interest rate determined pursuant to this Paragraph shall be equal to the lowest interest rate per annum by which no interest shall be imputed to the recipient of such interest by reason of Section 483 of the Internal Revenue Code and the Treasury Regulations thereunder as amended from time to time. This determination shall be made as of the date the payor of the interest first becomes obligated to pay interest or any obligation created pursuant to this Agreement.

#### Shareholders' Actions

16. If any vote, consent, or other action on the part of the Shareholders of the Corporation is necessary to remove a legal impediment that would otherwise prevent the performance by the Corporation of any one or more of its obligations under this Agreement, each of the Shareholders agrees to supply the vote or consent. Each of the Shareholders hereby authorizes and directs his or her heirs, executors, administrators, and assigns to execute any and all instruments and to take any and all further action necessary or desirable for the purpose of carrying out the provisions of this Agreement. Without limitation on the foregoing, the Shareholders specifically agree for themselves and their heirs, administrators, successors, and assigns to take appropriate action as Shareholders of the Corporation to reduce the stated capital of the Corporation and to cause the Corporation to write up to fair market value any or all of its physical assets if either or both of these actions are necessary or desirable to make lawful the purchase by the Corporation of its own shares pursuant to the provisions of this Agreement.

#### Notation on Share Certificates

17. The certificates representing the shares of common stock of the Corporation that are the subject to this Agreement shall have endorsed thereon the following legend:

"The shares of stock represented by this certificate and their transfer are subject to all of the terms and provisions of an Agreement to which the Corporation is a party dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_. The Agreement provides in substance that any shareholder desiring to sell all or part of his or her stock must first offer it to the Corporation and then to the other shareholders before selling it or otherwise disposing of it to a nonshareholder. The Agreement further provides that stock may not be transferred to any person who is not licensed to practice the profession of \_\_\_\_\_[SPECIFY PROFESSION FOR WHICH CORPORATION WAS FORMED]. No transfer, assignment, pledge or encumbrance of this share certificate may be made unless made in accordance with the terms of that

Agreement. A copy of the Agreement is on file at the office of the Corporation, and may be inspected by the holder of this certificate."

#### Amendment

18. This Agreement may be altered, amended or terminated by a writing signed by the Corporation and by all the Shareholders who are parties to this Agreement.

#### Termination

19. This Agreement shall terminate on the occurrence of any of the following events:

(a) The bankruptcy, receivership, or dissolution of the Corporation;

(b) The deaths within a period of ninety (90) days of all Shareholders who are parties to this Agreement; or

(c) When there survives only one (1) Shareholder who is a party to this Agreement, but only after the purchase by the Corporation of the shares in the Corporation of any deceased Shareholder.

Binding Nature

20. This Agreement shall be binding on the Shareholders, their heirs, legal representatives, successors, and assigns, and on the Corporation, its successors, and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement at \_\_\_\_\_, on the day and year first written above.

By:

\_\_\_\_\_ [NAME OF CORPORATION]

\_\_\_\_\_ [SIGNATURE] [TYPED NAME AND TITLE]

\_\_\_\_\_ [SIGNATURE] [TYPED NAME OF SHAREHOLDER]

\_\_\_\_\_ [SIGNATURE] [TYPED NAME OF SHAREHOLDER]

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