



# REALTY SERVICES

INDUSTRIAL / COMMERCIAL / RESIDENTIAL / OFFICE / LAND  
AUTOMOTIVE / RETAIL / BUSINESS SALES, MERGERS & ACQUISITIONS



Office: **800-727-2100** Direct: **805-908-7500** Fax: **805-579-6100** DRE Lic #01871760  
5394 Seneca Place - Simi Valley, CA 93063 USA Find Us Online At: [www.bizbuilder.com](http://www.bizbuilder.com)

## Buyer's Acknowledgment of Business Introduction and NON-DISCLOSURE, CONFIDENTIALITY AND WARRANTY AGREEMENT

<u>Business Ad Number:</u>	<u>Description:</u>

**1. GENERAL INTRODUCTION:** The undersigned ["Buyer" and/or "Buyers"], individually and on behalf of any affiliated prospective Buyer/s, acknowledges being first introduced to the Business/Real Estate and/or Real/Personal Property ["Property" or "Business Opportunity"] identified above by BIZ Builder.Com [hereinafter "Procuring Broker"] and/or an authorized Selling Broker [a "Cooperating Broker"] who has received advanced approval by Procuring Broker to Co-Broker the Property/s that is/are listed above. Collectively, Procuring Broker and Cooperating Broker may also be referred to as "Broker" and/or "Brokers".

Buyer further understands and acknowledges that Procuring Broker may [but not necessarily] have a valid Listing Agreement with the Business Owner\* ["Seller"] for the Property/s listed above. Buyer further understands and acknowledges that Procuring Broker may [or may not] have been retained to represent the Seller for purposes of procuring a qualified Buyer for the sale of the Property/s listed above. Buyer understands and acknowledges that Procuring Broker may [or may not] be acting as a sole "Dual Agent" [unless an authorized Cooperating Broker is approved (in advance) by Procuring Broker to represent Buyer] to represent both the Buyer and the Seller.

The undersigned further understands and acknowledges that Procuring Broker's fees will be paid from the final transaction amount, directly from Seller's proceeds through Escrow. It is the responsibility of the Buyer to pay any fees incurred due to Buyer's sole and exclusive representation by Cooperating Broker and/or Selling Broker, including but not limited to: Legal/Attorney, CPA, and/or other Broker/s fees who may be representing the Buyer exclusively.

*\*Note:* Owner, for purposes of this agreement, shall include [but not be limited to]: Seller, Sole Proprietor, Shareholder, Partner, LLC Member, Trustee, Executor or Guardian, or other individual or entity owning a controlling interest in the above-referenced Business Opportunity listing.

Buyer Initials:



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In order to induce Procuring Broker and/or Seller to furnish **Confidential Information** regarding the Business[es] [hereinafter "Information"] to Buyer, for Buyer's evaluation and possible purchase of said Business[es], and in consideration for Procuring Broker/s and/or Seller/s furnishing such information, Buyer understands, represents, agrees and warrants to Procuring Broker and/or Cooperating Broker and Seller/s as follows:

**2. BUYER DEFINITION:** The word "Buyer" as used herein, shall mean and include the undersigned individually, any associates or family members, as a member of a partnership, as an employee, stockholder, officer or director of a corporation, as an agent, adviser or consultant for or to any business entity and in any other capacity whatsoever.

**3. NON-DISCLOSURE OF INFORMATION:** The undersigned acknowledges that the Information being disclosed by Procuring Broker/s, Cooperating Broker/s and Seller/s is of a proprietary and confidential nature. The term "Confidential Information" shall mean all information, including the fact that the Business[es] is/are for sale, all financial, production, marketing and pricing information, business methods, business manuals, manufacturing procedures, correspondence, processes, data, contracts, customer lists, employee lists, and any other information whether written, oral, or otherwise made known to Buyer/s as a result of: a) any inspection, examination or other review of the books, records, assets, liabilities, processes or production methods of Seller; b) from communications with Seller or its directors, officers, employees, agents, suppliers, customers or representatives; c) during visits to Seller's premises; or d) through disclosure and/or discovery in any other manner not mentioned above.

Buyer further warrants and represents the following:

A. The information furnished by Procuring Broker, Cooperating Broker and/or Seller/s has/have not been publicly disclosed, and has not been made available to Buyer by any party or source other than Broker/s or Seller/s – and has been furnished only upon the terms and conditions that are contained in this Agreement.

B. Buyer agrees not to disclose the information [in whole or part] to any party other than persons within Buyer's organization, including independent advisers/consultants, who have a need to know such Information for purposes of evaluating or structuring the possible purchase of the business. Buyer accepts full responsibility for full compliance with all provisions of this Agreement by such other persons.

C. Buyer will not disclose, except to the extent required by law, to any parties other than the persons described in Paragraph 2(B) above that the business is available for purchase, or that

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evaluations, discussions or negotiations are taking place concerning a possible purchase.

D. Buyer will not utilize [now, or at any time in the future] any trade secret/s [as that term may be defined under statutory or common law] that is/are included in the furnished Information for any purpose other than evaluating the possible purchase of the Business[es], including without limitation, not utilizing same in the conduct of Buyer/s present or future business[es].

E. In addition to the prohibition against utilizing any trade secret/s, Buyer will not utilize any other furnished information for any purpose other than evaluating the Business[es] for possible purchase, specifically including [without limitation] not utilizing same to enter into and/or engage in competition with the Business[es] or assist or promote any other party/s in so doing. The foregoing prohibition against utilizing said Information in competing with the Business[es] shall remain in effect for five [5] years from the date hereof and shall be applicable to competition within the presently existing marketing area of the Business[es].

F. If Buyer/s decide/s not to pursue the possible purchase of the Business[es], Buyer will return to Procuring Broker/s, and/or Cooperating Broker/s all Information previously furnished by Broker/s or Seller/s, including without limitation, any and all reproductions of same within five [5] business days, and further, shall arrange to immediately destroy any and all analysis, compilations or other material that incorporates any part of said Information.

**4. DEFINITION OF "CONFIDENTIAL INFORMATION":** The term "Confidential Information" shall mean all information including all Financial, Production, Marketing and Pricing Information, Property Methods, Property Manuals, Manufacturing Procedures, Correspondence, Processes, Data, Contracts, Customer Lists, Employee Lists and any other information whether written, oral or otherwise made known to Buyer: (a) from any inspection, examination, or other review of the books, records, assets, liabilities, processes, or production methods of Seller, (b) from communications with Seller or its directors, officers, employees, agents, suppliers, customers or representatives; (c) during visits to Seller's premises, or (d) through disclosure or discovery in any other manner. However, Confidential Information does not include any information, which is readily available and known to the public.

**IN SUMMARY:** Seller desires to maintain the confidentiality of the information disclosed. The undersigned agrees with Procuring Broker and/or Cooperating Broker not to disclose or permit access to any Confidential Information without the prior written consent of Seller, to anyone other than Buyer's employees, legal counsel, accountants, lenders or other agents or advisers to whom disclosure or access is necessary for Buyer to evaluate the Property. Disclosure of Confidential Information shall be made to these parties only in connection with the potential acquisition of the Property, and then only if these parties understand and agree to maintain the

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confidentiality of such Confidential Information. The undersigned shall be responsible for any breach of this Agreement by these parties, and neither Buyer nor these parties shall use or permit the use of Confidential Information in any manner whatsoever, except as may be required for Buyer to evaluate the Property or as may be required by legal process. If the Buyer does not purchase the Property, Buyer, at the close of negotiations, will destroy or return to Procuring Broker and/or Cooperating Broker (at Procuring Broker's option) all information provided to Buyer and will not retain any copy, reproduction, or record thereof. Non disclosure also includes the fact that the Property is for sale.

**5. CONTACT LIMITATIONS:** Buyer agrees not to contact the Seller, or Seller's employees, independent contractors, customers, creditors, vendors or agents [other than through Broker/s] for any reason, whatsoever, without the prior written consent of Procuring Broker. Buyer shall conduct all inquiries into and discussions about the business solely through the Procuring Broker, unless otherwise agreed to by the Procuring Broker, in writing.

**6. DISCLAIMER OF PROCURING BROKER AND/OR COOPERATING BROKER'S LIABILITY AND BUYER'S RESPONSIBILITY:** Whenever Brokers take a Property to market they receive information about the Property from the Seller, usually including but not limited to tax returns, financial statements, equipment lists and facilities leases. Based on information provided by the Seller, Brokers often prepare a summary description of the Property, which may include a cash flow projection, an adjusted income statement, or a Seller discretionary cash flow statement. Buyer understands that the Procuring Broker and/or Cooperating Broker does not audit or verify any information given to Procuring Broker and/or Cooperating Broker or make any warranty or representation as to its accuracy or completeness, nor in any way guarantee future Property performance.

**SPECIAL NOTE:** Buyer is solely responsible to examine and investigate the Property, its assets, liabilities, financial statements, tax returns, and any other facts, which might influence Buyer's decision to purchase, or the price Buyer is willing to pay. Any decision by Buyer to purchase the Property shall be based solely on Buyer's own investigation and that of Buyer's legal, tax and other Advisers. Procuring Broker and/or Cooperating Broker urges Buyer to obtain independent legal and tax counsel. Buyer hereby expressly releases and discharges Procuring Broker and/or Cooperating Broker from any and all responsibility and/or liability in connection with the accuracy, completeness [or any other accuracy or lack thereof] of the information presented for review, and accepts sole and financial responsibility for conducting Buyer's "due diligence" in evaluating the information and all other factors related to the business opportunity being contemplated.

Any subsequent decision by Buyer to purchase the Business shall be based solely on Buyer's own investigation and evaluation of the Business [including recommendations Buyer receives from independent Legal, Tax and other advisers].

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**7. NON-CIRCUMVENTION AGREEMENT:** The Seller has entered into an Exclusive Agreement providing that Seller shall pay a fee to Procuring Broker, if during the term of that agreement or up to twenty four (24) months thereafter, the Property is transferred to a Buyer introduced by Procuring Broker and/or Cooperating Broker. Buyer shall conduct all inquiries into and discussions about the Property solely through Procuring Broker and/or Cooperating Broker and shall not directly contact the Seller or the Seller's representatives. ***Should Buyer purchase all or part of the stock or assets of Property, acquire any interest in, or become affiliated in any capacity with Property without Procuring Broker and/or Cooperating Broker's participation, or in any way interfere with Procuring Broker's right to a fee pursuant to C.A.R. Form BLA (Business Listing Agreement - Exclusive) – or any other form used by Procuring Broker, executed between Seller and Procuring Broker, Buyer shall be liable to Procuring Broker for the full and complete compensation listed in this agreement, plus - any other damages [including reasonable attorney's fees and costs associated thereto] required to enforce this provision.***

Buyer Initials:

**8. OFFER TO REPRESENT / SUBSEQUENT REPRESENTATION:** In the event Buyer is NOT represented by a Broker, Procuring Broker may [at Procuring Broker's option] offer to represent Buyer under separate agreement [CAR Form BRE]. If professional representation is offered to Buyer by Procuring Broker [and subsequently refused by Buyer] – Buyer understands that they will not be represented by a Broker for this transaction and will be negotiating directly with Procuring Broker – who represents the Seller, exclusively. Should Buyer subsequently decide to seek representation from another Broker or Cooperating Broker after Procuring Broker has disclosed confidential information to Buyer, Buyer's Broker or Cooperating Broker will not be entitled to receive a commission for this transaction under any circumstances.

**9. SEVERABILITY:** Should any provision hereof be deemed illegal or unenforceable, the remaining provisions hereof shall be given effect separately therefrom and shall not be affected thereby.

**10. ENTIRE AGREEMENT:** This Agreement represents the entire agreement between the parties as to the subject matter hereof and supersedes all prior oral and written agreements and understandings between the parties. This Agreement shall not be modified except in writing executed by both the Procuring Broker and the Buyer. This Agreement supersedes all prior understandings or agreements between the parties with respect to its subject matter. This Agreement shall be construed under and governed by the laws of the State of California. If Buyer is a corporation, partnership, or other such entity, the undersigned executes this Agreement on behalf of Buyer and warrants that he/she is duly authorized to do so.

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Buyer signature below acknowledges receipt of a fully completed copy of this Agreement.

I have carefully read and fully understand and agree to all that has been presented above:

\_\_\_\_\_  
Buyer Signature

\_\_\_\_\_  
Today's Date

\_\_\_\_\_  
Your Full Name

\_\_\_\_\_  
Business Telephone Number

\_\_\_\_\_  
List Your Email Address

\_\_\_\_\_  
Residence Phone Number

\_\_\_\_\_  
Physical Street Address (No P.O. Boxes)

\_\_\_\_\_  
Mobile Phone Number

\_\_\_\_\_  
City / State / Zip Code

\_\_\_\_\_  
Buyer's Real Estate Broker  
Please Indicate "NONE" If You Are Not Currently Represented By A Licensed Real Estate Broker.

List Any Additional Contact Information Here:

Buyer Initials:



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## PLEASE PROVIDE BASIC INFORMATION ON YOUR QUALIFICATIONS

Available Funds To Invest: \$ \_\_\_\_\_ Is Additional Financing Required?: \_\_\_\_\_

Have You Ever Owned A Business Before? \_\_\_\_\_ When? \_\_\_\_\_

What Are Your Best Strengths? \_\_\_\_\_

What Are Your Weaknesses? \_\_\_\_\_

What Type Of Business Do You Think You Are Most Suited For: \_\_\_\_\_

\_\_\_\_\_

What Attracts You To The Business You Are Inquiring About Today? \_\_\_\_\_

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Is Anything Else That You Think We Need To Know About You? If So – Please Let Us Know Here:

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Buyer Initials: