

BUY-SELL AGREEMENT QUESTIONNAIRE

COMPANY INFORMATION

Company Name: _____

Address: _____

Phones: _____

Tax ID No.: _____

Owners (Shareholders, Members, Partners) and (if Company is Party), Members of Executive Board (directors, managers, managing partner, etc.). Use reverse side if more space is needed.

Name	Capacity	Address	Social Sec. No.	% of Ownership
	(Owner, director, officer, etc.)			

Type of Company:

corporation; limited-liability company (LLC); limited-liability partnership (LLP); limited partnership; general partnership; other (specify: _____):

Net Fair Market Value of Company: \$ _____

Basis of Company:

Expected Growth Rate (5-10 year projection): _____ %

Outlook for company (long-term viability, possible IPO etc.):

Is there any relation between owners? Yes No If yes, please describe:

Do owners have any additional business interests? Yes No If yes, please describe:

Who are the potential buyers of your business interest? (check all that apply)

- Co-owners(s)
- Family members
- Key employee
- Your business
- Outside buyer

Current Operations:

pre-emptive rights; cumulative voting; transactions with interested directors permitted; S-corporation election made.

AGREEMENT

When Should Buy-Sell Agreement become Operative?

Death Sale to surviving owners Other) Sale to new owners Retirement Retirement date:

Who will fund buy-sell agreement? Company or Owners

Will the surviving owners sell at a later date? Yes No

Is there an existing buy-sell agreement? Yes No If yes, is it funded Yes No

Is there a product preference for funding agreement Yes No

Briefly describe your goals in planning for succession of your business _____ List concerns:

What do you want to happen to your business when you die? _____

What will happen to your salary? _____

Do you want your salary to continue to your spouse or children? Yes No

Will the company pay dividends to your family? Yes No

Will your co-owners look after your family? Yes No Do you want them to? Yes No

Do you have family members who are presently involved in your business? Yes No

Could they assume control of the business if you died today? Yes No

Would you want them to? Yes No

Would there be resistance from co-owners? Yes No

Do you have an estate plan? Yes No Does it cover your business? Yes No How? _____

Do you believe your family will receive a fair price for your share of the business? Yes No

Do you believe the IRS will value the stock realistically? Yes No

Will there be enough cash to settle your estate expenses? Yes No

CO-OWNERS

What if your co-owner dies?

Do you want to accept new partners, such as the heirs of the co-owner? Yes No

What will you do if the co-owner's heirs' opinions differ from yours?

Where do you want the profits to go?

Is obtaining a step-up in tax basis when your business interest is sold an important factor? Yes No

Do you desire flexibility to make the final decisions at a later date regarding buyers, amount purchased, tax treatment, etc.? Yes No

Do you want to use business dollars for the personal benefit of the owner(s) while minimizing personal income tax consequences? Yes No

Desired change: pre-emptive rights; cumulative voting; transactions with interested directors permitted; S-corporation election.

Basic Features of Agreement:

Company redemption mandatory.

Cross-purchase.

Funded with: life insurance and/or disability insurance.

Right of first refusal on lifetime sale.

Binding for estate tax valuation.

Sale or gift to family (or trusts for family) permitted.

Shares/units become nonvoting when they it pass to heirs or beneficiaries of will or trust.

Vote Required to Amend:

Articles: majority; 2/3 3/4 _____.

Bylaws / Operating Agreement: unanimous; majority; 2/3 3/4 _____.

LIFETIME TRANSFERS:

Right of First Refusal. The agreement will provide that if an owner desires to accept an offer to purchase the owner's interest, the other owner(s) may purchase that interest on the same terms and conditions; provided, that:

(a) Owners may transfer interests to family members (or trusts for their benefit) without "triggering" the right of first refusal that would otherwise apply to voluntary transfers

however, if the owner's interest are bought out, the family members (or the trusts holding their interests) also must sell their interests.

(b) If an Owner wishes to sell his or her interest, ALL of his interest must be offered under the right of first refusal.

(c) If interests are offered, ALL of the offered interests (not just a portion) must be purchased by the other owner(s) on a pro rata basis, or, failing that by the company.

Owners and company may elect not to purchase and, if all interests are not purchased, the company must be liquidated.

Voting Rights. Lifetime transfers are automatically stripped of any voting rights.

Lifetime Triggering Events. Interest of owner must or may be sold with other owners or

the company having a right of first refusal upon insolvency disability voluntary withdrawal or retirement termination for cause.

DISABILITY OF OWNER.

What would happen to your business if you became disabled? _____

What would happen to your salary? _____

Will your business be able to afford to continue your salary and hire a replacement for your duties? Yes

No

Do you presently have disability insurance? Yes No

When did you last have it reviewed? _____

Does the disability policy coverage keep pace with salary increases? Yes No

If an Owner becomes totally disabled:

Agreement will not address purchase upon disability.

The owner's interests will be purchased.

A disabled owner's successor(s) is not required to sell but may demand that the remaining owner(s) or company purchase the deceased owner's interest.

A deceased owner's successor(s) is required to sell if the remaining owner(s) or company elect to purchase the deceased owner's interest.

Disability insurance is required NOT required.

DEATH OF OWNER

A deceased owner's interest will be purchased.

Life insurance is required NOT required.

A deceased owner's successor(s) is not obligated to sell but may demand that the remaining owner(s) or company purchase the deceased owner's interest.

A deceased owner's successor(s) is obligated to sell if the remaining owner(s) or company elect to purchase the deceased owner's interest.

Agreement is to be silent as to purchase upon death.

PRICE

- Agreed upon value.
- (a) Current agreed upon value: \$_____ per _____.
- (b) Automatic cost-of-living adjustment based on Consumers' Price Index.
- (c) Agreed upon value provision does not apply unless most recently agreed to within _____ months of triggering event.
- Appraisal by qualified business appraiser.
- Good will is to be taken into account, whether or not carried on the books.

MISCELLANEOUS

- "Redemption" (Company must purchase.) Other owners have first election to purchase, but they must purchase all or none.
- "Cross-purchase" (Owners must purchase.) Company has first election to purchase, but it must purchase all or none.
- Owners are to covenant not to compete with the company after cessation of employment.
- (a) Number of years:
- (b) Geographical area:
- If interests are to be purchased, purchaser may pay in installments evidenced by a Note (rather than all cash):
- (a) Term of months: _____
- (b) Minimum monthly payment: \$_____.
- (c) Rate of interest: _____; _____% of the applicable short- mid- long-term federal rate.
- (d) Percent of price as cash down payment: _____%, but not less than available insurance.
- New stock:
- (a) The company is NOT to issue new stock unless it is subject to the Agreement..
- (b) The issuance of new stock is to be prohibited.
- (c) New stock may be issue, but it first must be offered to the Owners in proportion to their interests.
- (d) If a Owner who is a director or officer sells his interests (or ceases to be a principal of an entity which is a Owner) the Owner must resign as a director and officer.
- A Subchapter S election is to be maintained.

ENFORCEMENT

- Disputes are to be resolved by arbitration.
- _____ state law will apply, and the venue for any litigation will be in _____.