

FORM-Basic Letter of Intent for an Acquisition

_____, _____
[target name and address]

This letter of intent will serve to set forth and confirm the preliminary discussions and negotiations between _____ (the “*Company*”) and _____ (“*Buyer*”) with respect to the possible acquisition of the Company by Buyer or its designee (the “*Transaction*”). *[Note: The parties to the letter of intent may vary depending on the circumstances. If a stock sale, some or all of the owners of the Company may be parties in addition to the Company, since the owners will be the sellers in the transaction. If an asset sale, the Company would be the seller and therefore the appropriate party to the letter of intent.]* The Company and Buyer desire to as promptly as practicable proceed with a due diligence investigation of the Company by Buyer and negotiations to attempt to enter into a definitive agreement, the general terms and conditions of which are set forth below. This letter of intent does not contain all matters on which agreement must be reached in order for the proposed Transaction to be consummated. This letter of intent is intended solely as an outline of certain material terms, except with respect to the provisions of Sections 4, 7, 8, 9, 10, 11, 12 and 13, which are intended to be binding.

1. Transaction Structure. It is currently anticipated that at the closing of the proposed Transaction (the “*Closing*”) Buyer will acquire [the Company/all or substantially all of the assets of the Company] [either through an acquisition of all its outstanding stock or as an acquisition of all or substantially all of its assets], however, the parties agree that the form of the proposed Transaction will be structured and agreed to by the parties after review of such matters as the parties deem appropriate, including tax matters, liabilities of the Company, and governmental and third party consent requirements.

2. Purchase Price. It is currently contemplated that:

a. The purchase price to be paid by Buyer for the [Company/assets of the Company] in the proposed Transaction will be [\$_____/in the range of \$_____] (the “*Purchase Price*”).

b. The Purchase Price will be paid at Closing in [cash or other immediately available funds], and will be subject to customary adjustments reflecting the results of operations from ____ through the date of Closing.

c. *[Reserved for description of other matters that may be relevant to the Purchase Price and payment thereof, such as earn out payments, escrow arrangements or holdbacks].*

3. Definitive Agreement; Timeline for Closing. Promptly after the date of the Company’s acceptance of this letter of intent, the parties will engage in negotiations with a view toward executing a mutually satisfactory definitive agreement with respect to the proposed Transaction (the “*Definitive Agreement*”) and closing the proposed Transaction on or before _____, _____. [It is anticipated that the execution of the Definitive Agreement and the Closing will occur simultaneously.] The Definitive Agreement will contain, among others, the following terms:

a. representations, warranties, covenants, and conditions of the parties that are customary for transactions of the type described herein;

b. that the respective representations and warranties of the parties in the Definitive Agreement will survive the Closing for a period of time to be agreed by the parties;

c. that the parties' respective indemnification obligations under the Definitive Agreement will be subject to such baskets, caps and other limitations as are agreed by the parties; and

d. that Buyer will be indemnified, defended and held harmless from all liabilities in connection with the ownership, use and operation of the Company's business arising on or prior to the date of Closing.

4. Exclusivity. The Company, on its own behalf and on behalf of its affiliates, directors, officers, partners, employees, advisors, agents and representatives, agrees that until termination of this letter of intent, it will not, directly or indirectly, (a) make, solicit or encourage any offer, or otherwise provide any assistance in any way in aid of any offer or proposal, (b) engage in any negotiations or discussions with any person or (c) provide any information to, or otherwise cooperate in any way with, any person, for the sale, lease or transfer (or similar transaction) of all or any part of the business or assets of the Company or any subsidiary of the Company, or any equity interests in the Company or any subsidiary of the Company, to any person or entity other than Buyer. Notwithstanding the foregoing, the Company may respond to inquiries or other expressions of interest without being deemed to have violated this Section to the extent the Company does not solicit, initiate or encourage such inquiries or other expressions of interest, and any response is limited to informing the person making the inquiry or other expression of interest that the Company has entered into a letter of intent regarding the proposed Transaction and is prohibited from further discussing or entertaining any alternative proposals.

5. [Consulting and Non-competition Agreement]. It is currently anticipated that in connection with the proposed Transaction, Buyer and _____ and _____ would enter into a consulting and non-competition agreement whereby _____ and _____ would agree to provide certain consulting and transition services to Buyer in exchange for such incentive and performance based compensation as Buyer and _____ and _____ may agree.] ***[Note: This provision is included as a placeholder only. Specifics with respect to consulting or employment arrangements and non-competes will vary from one transaction to the other.]***

6. Due Diligence Review. From the date of your acceptance of this letter of intent through the earlier of (a) execution of the Definitive Agreement or (b) termination of this letter of intent in accordance with Section 8 below, the Company will cooperate with Buyer's due diligence investigation of the Company and its properties, assets and business and will provide Buyer and its representatives with reasonable access during normal business hours to employees of the Company and to books, records, contracts and other information pertaining to the Company and its properties, assets and business.

7. Confidential Transaction/Public Disclosure. The parties agree to keep the proposed Transaction and negotiations strictly confidential. Further, no party will make or issue any public statement or announcement with respect to the proposed Transaction, the negotiations concerning the proposed Transaction or the existence or terms of this letter of intent without the prior written approval of the other, and the discussions between the parties will remain confidential, except to the extent that disclosure is otherwise required by law, the rules of any applicable stock exchange or judicial process. In the event that either party hereto determines disclosure is required by law, the rules of any applicable

stock exchange or judicial process, it will promptly give notice to the other party hereto of such determination and use its best efforts to allow the other party to review the proposed form of public disclosure. [The parties understand and acknowledge that disclosure of the proposed Transaction in connection with any filings made pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976 will not be prohibited by this Section.] The Company further acknowledges that Buyer and its affiliates are involved and will continue to be involved in many aspects of the same business that the Company is engaged in, and that Buyer and the Company may from time to time be in competition with each other. ***[Note: This provision would not be needed if the parties have otherwise entered into a separate confidentiality agreement, though the confidentiality agreement should be acknowledged in this letter and incorporated by reference.]***

8. Termination. This letter of intent will automatically terminate if the Definitive Agreement has not been executed and delivered by the parties by 5:00 p.m., Central time, on _____, _____ ***[Note: The date will vary but somewhere between 30 and 90 days from the date of the letter of intent would be normal]***; provided, however, that the provisions of Section 7, this Section 8, and Sections 9, 10, 11, 12 and 13 will survive such termination of this letter of intent. In any event, this letter of intent will terminate upon execution of the Definitive Agreement. No termination of this letter of intent will release any party hereto from liability for any breach of this letter of intent.

9. Governing Law. This letter of intent will be governed by and construed in accordance with the substantive laws of the State of _____, without giving effect to any choice of laws principles. ***[Note: When selecting the governing law, the parties should be careful to select the laws of a state that has some meaningful connection with the parties or the transaction (i.e., a jurisdiction where some or all of the parties reside, a jurisdiction where the target business is located or a jurisdiction that otherwise has had meaningful contacts with the transaction).]***

10. Jurisdiction and Venue. Any process against a party hereto in, or in connection with, any proceeding arising out of or relating to this letter of intent may be served personally or by certified mail at such party's principal place of business with the same effect as though served on it personally. Any and all proceedings arising out of this letter of intent will be brought in the United States District Court for the Southern District of Texas, Houston Division, or in any court of appropriate jurisdiction in Harris County, Texas and each party hereby submits to and accepts the jurisdiction of such courts for the purpose of any such proceeding. ***[Note: When selecting the venue for disputes, the parties should be careful to select a venue that has some meaningful connection with the parties or the transaction (i.e., a jurisdiction where some or all of the parties reside, a jurisdiction where the target business is located or a jurisdiction that otherwise has had meaningful contacts with the transaction).]***

11. Expenses. Each party hereto will be responsible for and bear all its own costs and expenses incurred at any time in connection with pursuing, negotiating or consummating the proposed Transaction, including without limitation, the preparation, negotiation and execution of this letter of intent.

12. Counterparts. This letter of intent may be executed in any number of counterparts, and may be delivered in person, by first class mail, by facsimile or by Portable Document Format ("**PDF**"). Each such original, facsimile copy or PDF copy, when so executed and delivered, will be deemed to be an original, and all of which taken together will constitute one and the same instrument.

13. Nonbinding Agreement. THIS LETTER OF INTENT IS NOT, AND YOUR ACCEPTANCE HEREUNDER DOES NOT CONSTITUTE, AN AGREEMENT TO CONSUMMATE THE TRANSACTION DESCRIBED HEREIN, OR ANY AGREEMENT TO ENTER INTO A

FORMAL CONTRACT WITH RESPECT TO SUCH TRANSACTION. IT IS UNDERSTOOD THAT THIS LETTER OF INTENT IS MERELY A STATEMENT OF INTENT AND WHILE THE PARTIES APPEAR TO AGREE IN PRINCIPLE TO THE CONTENTS HEREOF AND PROPOSE TO PROCEED PROMPTLY TO WORK OUT ARRANGEMENTS WITH REGARD TO THE CONSUMMATION OF THE TRANSACTION CONTEMPLATED HEREBY, ANY LEGAL OBLIGATIONS BETWEEN THE PARTIES WITH RESPECT TO THE TRANSACTION WILL BE ONLY AS SET FORTH IN A DULY NEGOTIATED AND EXECUTED FORMAL WRITTEN CONTRACT IF THE PARTIES ARE SUCCESSFUL IN NEGOTIATING SAME. ACCORDINGLY, EXCEPT FOR THE PROVISIONS OF SECTIONS 4, 7, 8, 9, 10, 11, 12 AND THIS SECTION 13, WHICH WILL BE BINDING UPON AND INURE TO THE BENEFIT OF EACH OF US AND OUR RESPECTIVE SUCCESSORS AND ASSIGNS, THIS LETTER OF INTENT DOES NOT CONSTITUTE A BINDING AGREEMENT NOR DOES IT CONSTITUTE AN AGREEMENT TO ENTER INTO AN AGREEMENT AND THE TERMS HEREOF ARE SUBJECT TO THE EXECUTION AND DELIVERY OF A DEFINITIVE AGREEMENT. SUCH DEFINITIVE AGREEMENT WILL BE IN FORM AND CONTENT SATISFACTORY TO ALL PARTIES.

If the foregoing is acceptable and sets forth our mutual understandings concerning these matters, please indicate your approval by signing, dating, and returning a copy of this letter of intent to the undersigned on or before 5:00 p.m., Central time, on _____, _____.

[BUYER]

By: _____
Name: _____
Title: _____

ACCEPTED AND AGREED TO
THIS ____ DAY OF _____, ____:

By: _____
Name: _____
Title: _____

This form is indicative only and does not purport to contain all provisions that any specified situation may require. This form is provided as a starting point to assist counsel in considering what provisions should be included in a document of this sort for a particular client; any final document should be prepared taking into consideration the parties' various needs, including the basic business needs and agreements of the parties and any provisions that are made necessary by a particular jurisdiction's requirements or to further protect a client.

If you have any questions about this form, please contact Harva Dockery, Norton Rose Fulbright, at 214.855.8369 or harvadockery@nortonrosefulbright.com.

Submitted: December 2014