

# **ASSET PURCHASE AGREEMENT CHECKLIST**

(This is not intended to be exhaustive, only helpful. It is recommended to get professional advice and help from a well-qualified attorney, CPA or tax expert)

## **Deal Agreements**

- Letter of intent (the initial agreement between the parties – may be binding or nonbinding)
- Asset purchase agreement (the main contract)
- Security agreement (for situations where the seller retains an interest in the asset or other property in the event of a buyer default)
- Escrow agreement (terms for handling funds and property during the process of closing the asset purchase agreement)
- Stock purchase agreement
- Employment agreements (for when the asset is a company with key personnel)
- Consulting agreements
- Noncompetition agreements
- Nondisclosure or confidentiality agreement

## **Agreements for assignments or assumptions of liabilities**

- leases for real property or personal property
- loans
- Perform UCC search (at the State level) and lien search (at the County level)

## **Related instruments or other legal documents**

- Promissory note (repayment terms for asset purchases that are financed or paid for through installments)
- Bill of sale (a receipt for transfer of property often used for items like equipment, vehicles, inventory, etc.)
- vehicle title certificates
- Certificate of incorporation (a certification from an officer of the buyer and seller attesting to the valid organization of their entities that are party to an agreement)
- List of software used by the company and copies of any applicable licensing agreements
- List of all clients with carrier named benefits they are currently enrolled in

### **Exhibits to the asset purchase agreement**

- A list of assumed business names, trade names, and internet domains
- A list of employees and independent contractors (sub-agents) involved in a business acquisition
- A list of customers, clients, referrals, and other trade secrets
- Disclosures of licenses and appointments the seller holds
- Disclosure of any encumbrance(s) on the asset
- Other statements to verify applicable regulatory compliance
- Insurance policies
- Warranty claims related to the asset

### **Financial statements**

- Balance sheet
- Income statements
- Profit and loss statements
- Accounts receivable
- Tax returns or other documentation showing tax clearance with the IRS
- Past 12 months of commission statements by carrier

### **Organizational documents**

- Articles of Incorporation and Operating agreement with amendments
- Bylaws (including amendments)
- List of all shareholders and the shares they own
- Certificate of Good Standing from State office
- A list of any law, accounting, or consulting firms retained by the company

### **Important terms and dates for the transaction**

- Purchase price of the asset
- Due diligence period
- Escrow dates

- Closing date
- Post-closing items
- Accounting and Tax items
  - IRS 8594 – Asset Acquisition Statement (both buyer and seller have to file)
  - IRS 8822-B – EIN change in responsible party location and address
  - Understand the Tax Consequences (get help from a CPA or tax expert)