

DATE

COMPANY

ATTN:

ADDRESS

EMAIL

RE: LETTER OF INTENT

Dear _____:

This letter confirms your and our mutual intentions with respect to the potential transaction described herein between _____ (“Buyer”) and _____ (“Seller”). This document, in and of itself, does not represent an enforceable legal contract.

1. **Terms.** The principal terms of the proposed transaction would be substantially as follows:
 - (a) **Real and Effective Acquisition.** Buyer would acquire substantially all of the assets, tangible and intangible, owned by Seller that are used in, or necessary for the conduct of, its software development business, including, without limitation: (i) the _____ software, subject to any obligations contained in disclosed license agreements and all related intellectual property; (ii) the fixed assets of Seller; (iii) any and all customer lists; and (iv) the goodwill associated therewith, all free and clear of any security interests, mortgages or other encumbrances.
 - (b) **Consideration.** The aggregate consideration for the assets and business to be purchased would be \$_____; provided, however, that the working capital (current assets less current liabilities) of the business to be purchased equals or exceeds \$0, as shown on a closing date balance sheet prepared in accordance with generally accepted accounting principles.
 - (c) **Due Diligence Review.** Promptly following the execution of this letter of intent, you will allow us to complete our examination of your financial, accounting and business records and the contracts and other legal documents and generally to complete due diligence. Any information obtained by us as a result thereof will be maintained by us in confidence subject to the terms of the Confidentiality Agreement executed by the parties and dated _____ (the “Confidentiality Agreement”). The parties will cooperate to complete due diligence expeditiously.
 - (d) **Definitive Purchase Agreement.** All of the terms and conditions of the proposed transaction would be stated in the Purchase Agreement, to be negotiated, agreed and executed by you and us. Neither party intends to be

bound by any oral or written statements or correspondence concerning the Purchase Agreement arising during the course of negotiations, notwithstanding that the same may be expressed in terms signifying a partial, preliminary or interim agreement between the parties.

- (e) **Conduct in Ordinary Course**. In addition to the conditions discussed herein and any others to be contained in a definitive written purchase agreement (the "Purchase Agreement"), consummation of the acquisition would be subject to having conducted your business in the ordinary course during the period between the date hereof and the date of closing and there having been no material adverse change in your business, financial condition or prospects.
 - (f) **Continuation of Employment**. Simultaneously with the execution of the Purchase Agreement, we would offer employment to substantially all of Seller's employees and would expect the management team to use its reasonable best efforts to assist us to employ these individuals.
 - (g) **Expediency**. All parties would use all reasonable efforts to complete and sign the Purchase Agreement on or before _____ and to close the transaction as promptly as practicable thereafter.
2. **Expenses**. You and we will pay our respective expenses incident to this letter of intent, the Purchase Agreement and the transactions contemplated hereby and thereby.
 3. **Public Announcements**. Neither you nor we will make any announcement of the proposed transaction contemplated by this letter of intent prior to the execution of the Purchase Agreement without the prior written approval of the other, which approval will not be unreasonably withheld or delayed. The foregoing shall not restrict in any respect your or our ability to communicate information concerning this letter of intent and the transactions contemplated hereby to your and our, and your and our respective affiliates', officers, directors, employees and professional advisers, and, to the extent relevant, to third parties whose consent is required in connection with the transaction contemplated by this letter of intent.
 4. **Broker's Fees**. All parties have represented to each other that no brokers or finders have been employed who would be entitled to a fee by reason of the transaction contemplated by this letter of intent.
 5. **Exclusive Negotiating Rights**. In order to induce us to commit the resources, forego other potential opportunities, and incur the legal, accounting and incidental expenses necessary properly to evaluate the possibility of acquiring the assets and business described above, and to negotiate the terms of, and consummate, the transaction contemplated hereby, you agree that for a period of [45] days after the date hereof, you, your affiliates and your and

their respective officers, directors, employees and agents shall not initiate, solicit, encourage, directly or indirectly, or accept any offer or proposal, regarding the possible acquisition by any person other than us, including, without limitation, by way of a purchase of shares, purchase of assets or merger, of all or any substantial part of your equity securities or assets, and shall not (other than in the ordinary course of business as heretofore conducted) provide any confidential information regarding your assets or business to any person other than us and our representatives.

6. **Miscellaneous.** This letter shall be governed by the substantive laws of the State of [YOUR STATE] without regard to conflict of law principles. This letter constitutes the entire understanding and agreement between the parties hereto and their affiliates with respect to its subject matter and supersedes all prior or contemporaneous agreements, representations, warranties and understandings of such parties (whether oral or written). No promise, inducement, representation or agreement, other than as expressly set forth herein, has been made to or by the parties hereto. This letter may be amended only by written agreement, signed by the parties to be bound by the amendment. Evidence shall be inadmissible to show agreement by and between such parties to any term or condition contrary to or in addition to the terms and conditions contained in this letter. This letter shall be construed according to its fair meaning and not strictly for or against either party.

7. **No Binding Obligation.** Except for Sections 1(c) and 2 through 6, **THIS LETTER OF INTENT DOES NOT CONSTITUTE OR CREATE, AND SHALL NOT BE DEEMED TO CONSTITUTE OR CREATE, ANY LEGALLY BINDING OR ENFORCEABLE OBLIGATION ON THE PART OF EITHER PARTY TO THIS LETTER OF INTENT. NO SUCH OBLIGATION SHALL BE CREATED, EXCEPT BY THE EXECUTION AND DELIVERY OF THE PURCHASE AGREEMENT CONTAINING SUCH TERMS AND CONDITIONS OF THE PROPOSED TRANSACTION AS SHALL BE AGREED UPON BY THE PARTIES, AND THEN ONLY IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF SUCH PURCHASE AGREEMENT.** The Confidentiality Agreement is hereby ratified and confirmed as a separate agreement between the parties thereto.

If the foregoing terms and conditions are acceptable to you, please so indicate by initialing each page and signing the enclosed copy of this letter and returning it to the attention of the undersigned.

Sincerely,

BUYER

By: _____
Title: _____

ACCEPTED AND AGREED

SELLER

By: _____
Title: _____