

SAMPLE DISABILITY BUY-SELL AGREEMENT

SAMPLE CORPORATE ENTITY PURCHASE DISABILITY BUY OUT AGREEMENT

NOTE: This Crown sample agreement is provided for the client's attorney to use as a general guide in drafting a disability Buy-Sell agreement. It in no way constitutes legal advice nor should it be accepted as such.

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Parties To The Agreement

This Supplemental Agreement (hereinafter referred to as "Supplement") entered into this \_\_\_\_ day of \_\_\_\_\_, 19\_\_, by and between \_\_\_\_\_ and \_\_\_\_\_ (hereinafter referred to as "Stockholders") and \_\_\_\_\_ corporation with principle offices at \_\_\_\_\_ (hereinafter called "Corporation") is an agreement to the existing Buy-Sell Agreement (hereinafter called "Agreement") executed by and between said parties the \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

PURPOSE OF SUPPLEMENTAL AGREEMENT

WHEREAS, the Corporation and Stockholders desire to ensure continuity of management of the business in those who are active and recognize the prolonged total disability of a Stockholder would jeopardize this goal; and

WHEREAS, the parties to this Supplement wish to create an equitable arrangement in which the Corporation is obligated to purchase the interest of a disabled Stockholder and the disabled Stockholder must sell said interest to the Corporation; and

WHEREAS, the Corporation may contemplate the purchase of disability buy-sell insurance on the Stockholders to assist funding of the business interest of the disabled Stockholder.

NOW, THEREFORE, in consideration of the mutual covenants and the performance thereof expressed herein by the parties, the aforesaid Agreement is hereby amended, each of the Stockholders does hereby bind himself, his heirs, executors, administrators, and assigns, and the Corporation does hereby bind itself and its successors, and the further agree hereto as follows:

1. Agreement For Entity Purchase:

Each Stockholder and the Corporation agree that in the event of total disability of a Stockholder as specified in paragraph 5, the disabled Stockholder shall sell all shares of stock in the Corporation actually and equitably owned by the disabled Stockholder for the purchase price determined by paragraph 4. The Corporation shall purchase said shares at said purchase price.

2. Disability Insurance to Fund Agreement:

In order to help fund its obligations under this Agreement, the Corporation shall purchase disability insurance policies on each of the Stockholders who are parties to this Agreement. These disability insurance policies shall be listed in Schedule A, attached hereto and made part hereof. The Corporation shall be the sole owner and beneficiary of the disability policies issued to it and shall pay all premiums for said policies. The Corporation shall have the right to purchase additional disability insurance on any or all of the Stockholders to the extent necessary to carry out the purpose of this Agreement. Each Stockholder who is a party to this Agreement agrees to cooperate fully by performing all the requirements of the disability insurer which are necessary to obtain this insurance.

3. Delivery of Payment For Disabled Stockholder's Stock: (Select One)

a. Lump Sum

The purchase price shall be paid to the disabled Stockholder in one lump sum to be paid within 60 days after the date the Agreement is implemented as per paragraph 8.

- OR -

b. Monthly Installment Payments

The purchase price shall be paid to the disabled Stockholder in equal monthly installments over \_\_\_\_\_ (\_\_\_\_) months. The first installment shall be paid within 30 days from the date in which the Agreement is implemented as specified in paragraph 8.

- OR -

c. Lump Sum Downpayment With Subsequent Monthly Payments

The purchase price shall be paid to the disabled Stockholder by a lump sum downpayment of \$ \_\_\_\_\_ followed by equal monthly installments over \_\_\_\_\_ (\_\_\_\_) months.

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4. Valuation and Purchase Price of Corporate Stock:

(Note: If a Death Buy-Sell is in place, substituting this language with a reference to the stock valuation clause in the Death Buy-Sell agreement may be appropriate).

The Corporation and Stockholders agree that for purposes of paragraph 8 concerning Timing and Execution of Mandatory Stock Transfer, the fair market value of each share of stock of the Corporation is \$ \_\_\_\_\_ as of the date of this Amendment. The number of shares of stock owned by the Corporation and the number of shares of stock owned by each of the Stockholders is as shown on Schedule B, attached hereto and made a part thereof.

Within 60 days after the end of each fiscal year of the Corporation, and from time to time when all parties to this Agreement so agree, the Corporation and Stockholders shall agree to re-evaluate the per share value of corporation stock, and to amend and endorse Schedule B to reflect the then agreed upon current value. If for any reason the parties to the Agreement fail to make a re-determination of value as herein provided, the last previously stipulated value shall control.

- OR -

Formula Approach: The Corporation and Stockholders agree that the fair value of each share of Corporation stock can be determined by employing the following valuation formula:

*Note if insurance is not = to FMV represents partial payment + balance is due (Terms)*

5. Definition of Total Disability:

For purposes of this supplement, a Stockholder shall be considered disabled in accordance with the definition of total disability set out in the disability insurance policy(ies) shown on Schedule B, attached hereto and made a part thereof.

6. Death During Installment Payment Period:

If the disabled Stockholder dies while receiving payments for the purchase of his business interest in the Corporation, all unpaid notes relating to this Supplement shall become due within 60 days of the Corporation receiving life insurance proceeds.

7. Recovery of Disabled Stockholder Before Purchase Price Is Paid:

In the event the disabled Stockholder ceases to be totally disabled after his stock has been sold and transferred to the Corporation, as herein provided, but before receiving the entire purchase price for his stock, the remaining balance due to the disabled Stockholder shall be paid at the reduced rate of \$\_\_\_\_\_ per \_\_\_\_\_.

8. Timing and Execution of Business Interest Transfer:

The Corporation shall purchase the disabled Stockholder's entire ownership interest in the Corporation when the disabled Business Owner has been totally disabled for a period of \_\_\_\_\_.

(NOTE: Time period ideally should mirror the Elimination Period of the relevant disability policy).

Within 30 days of the purchase date as indicated in this section of this agreement, the disabled Stockholder shall execute and deliver any documents necessary to carry out the terms of this Agreement.

9. Transfer of Life Insurance Policies on Disabled Stockholder's Life:

All policies of life insurance on the life of the disabled Stockholders, purchased in accordance with this Agreement, shall be maintained in full force and effect during the period that the disabled Stockholder's stock is being purchased. Upon receipt of the entire purchase price for his stock, the disabled Stockholder shall have the right, exercisable within \_\_\_\_\_ days, to purchase from the Corporation all contracts of life insurance insuring his life and pertaining to the Agreement.

If said right to purchase is not exercised, the Corporation shall have the privilege of disposing of said policies at its discretion. Such purchase shall be in accordance with the terms and provisions of Section \_\_\_\_\_ of the Agreement.

10. Liability of Insurance Company:

No insurance company which has issued or shall issue a policy or policies listed in Schedule A shall be under any obligation with respect to the performance of the terms and conditions of this Agreement. Any such company shall be bound only by the terms and conditions set forth in its policies. Payment or other performance of its policy contract obligations by any such insurance company in accordance with the terms of its policy shall completely discharge such insurance company from all claims, suits and demands of all persons whatsoever.

11. Provincial Law Governs:

This Agreement shall be governed by the laws of the province of \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have executed this agreement at \_\_\_\_\_ in the country of \_\_\_\_\_. Province of \_\_\_\_\_ on this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

Attest: \_\_\_\_\_

\_\_\_\_\_  
Corporation

By: \_\_\_\_\_  
Corporate Title

Witness \_\_\_\_\_

\_\_\_\_\_  
Stockholder

Witness \_\_\_\_\_

\_\_\_\_\_  
Stockholder

Witness \_\_\_\_\_

\_\_\_\_\_  
Stockholder

Witness \_\_\_\_\_

\_\_\_\_\_  
Stockholder

**SCHEDULE A**

Pursuant to Section 2 of this Agreement, the Corporation is the owner of the following disability insurance policies:

**Insurer**

**Policy Number**

**Insured**

**Dated:** \_\_\_\_\_

**The ABC Corporation**

**By:** \_\_\_\_\_  
**Corporate Title**

SCHEDULE B

Pursuant to Section 4 of this Supplement, the parties to this Supplement do hereby determine that the value of each share of stock of the Corporation is \$ \_\_\_\_\_ as of this date. This value shall govern the purchase price of the shares of stock of a disabled Stockholder by the Corporation until such is re-determined as provided in Section 4 and Schedule B is so endorsed. As of this date the shareholdings of each Stockholder who is a party to the Agreement and the value of these holdings are as follows:

<u>Stockholder</u>	<u>Shares Owned</u>	<u>Aggregate Value</u>
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Dated: \_\_\_\_\_

\_\_\_\_\_ Corporation

By: \_\_\_\_\_  
Corporate Title

Witness \_\_\_\_\_

\_\_\_\_\_ Stockholder

Witness \_\_\_\_\_

\_\_\_\_\_ Stockholder

Witness \_\_\_\_\_

\_\_\_\_\_ Stockholder