



## **CONFIDENTIALITY AGREEMENT**

Instructions:

Fill it out; “sign” your name using double slash marks: //your name//.

- **SAVE IT to your computer**, then email the saved file to



## **CONFIDENTIALITY AGREEMENT**

### **SUMMARY OF THIS AGREEMENT**

Summary: The purposes served by this Buyer Registration and Confidentiality Agreement are as follows.

- Confirm that you will maintain the confidentiality of information that Cal Business Advisors shares with you.
- Confirm to you that any business Cal Business Advisors presents for consideration already has an agreement with Cal Business Advisors such that the Seller will pay our fees. With rare exceptions, you don't pay us.
- Provide information about you as a buyer for use by Cal Business Advisors to assist you in locating a business for purchase. We keep your information confidential until such time as it becomes necessary to share some of it with sellers of a business of interest to you.
- Explain that Cal Business Advisors represents both the seller and the buyer in essentially all transactions, but you have the right to waive our representation in writing prior to commencement of your activity with us.

### **TERMS OF THIS AGREEMENT**

1. The individual or entity designated below ("Buyer") hereby requests that Cal Business Advisors including its agents and affiliates (collectively "Broker") provide information concerning Businesses (individually, "Business") for Buyer's consideration to purchase such Business. Buyer warrants that Buyer has the right (including appropriate license), authority, and intent to purchase such a Business, or legally represents such an individual, group, partnership or corporation.
2. This Agreement commences on the date of Buyer's signature below, and continues thereafter until the Termination Date, which shall be the earlier to occur of: (a) the date Business is purchased and all obligations of this Agreement have been completed; or (b) one calendar year from date of Buyer's signature to this Agreement.
3. Buyer acknowledges that Broker will provide and/or arrange to provide from Seller or Seller's representative information concerning one or more Businesses for the purpose of Buyer's consideration to purchase. Buyer acknowledges that the Sellers, including any owners, of said Businesses presented to Buyer for consideration desire to maintain the confidentiality of the information disclosed. Buyer agrees to hold any information presented to it on behalf of a Seller to be confidential, including but not limited to the name and locality of any such Business, until such time as such Business is transferred to Buyer if
4. any purchase of the Business is made. Buyer agrees not to disclose or permit access to any confidential information, without the prior written consent of Seller, to anyone other than Buyer's accountants, lenders, or other agents or advisors to whom disclosure or access is necessary for Buyer to evaluate the Business in consideration of purchase. Disclosure of:
5. confidential information shall be made to Buyer's accountants, lenders, or other agents or advisors only in connection with the potential acquisition of the Business, and then only if these parties understand and agree to maintain the confidentiality of such confidential information. Buyer shall be liable and singularly responsible for any breach of this Agreement



by any or all of its accountants, lenders, or other agents or advisors, and neither Buyer nor its Buyer's accountants, lenders, or other agents or advisors shall use or permit the use of confidential information in any manner whatsoever, except as may be required for Buyer to evaluate the Business or as may be required by legal process.

If Buyer does not purchase said Business, this Section 3 survives the Termination Date and continues in perpetuity; if Buyer does purchase said Business, with regards to operating and financial information of Seller, this Section 3 survives the Termination Date and continues in perpetuity.

6. Broker will keep Buyer's information confidential until such time as it becomes necessary to share some of it with Sellers of desired practices. For example, if Buyer plans to visit a practice, Seller obviously needs to know the identity of Buyer. Additionally, Seller has already signed a Listing Agreement with Broker that includes the provision that Seller will keep confidential any information Seller receives about Buyer. A copy of the confidentiality clause contained in Seller's Listing Agreement with Broker will be furnished by Broker to Buyer upon Buyer's written request to Broker for same.
7. If Buyer does not purchase said Business, Buyer shall not directly or indirectly (other than through a public general advertisement) solicit for employment any current employee of Seller for a period of two calendar years from the date of Buyer's signature to this Agreement.
8. In the course of business, brokers often prepare a summary description of a business listed for sale, its cash flow projection, an adjusted income statement, or seller discretionary earnings statement; these summary descriptions and/or statements are based on information provided by sellers. Buyer understands that Broker does not audit or verify any information given to Broker by any Seller, nor does Broker make any direct or implied warranty or representation as to the accuracy or completeness of such information provided by Seller, nor does Broker in any way guarantee future business performance based upon such information provided by Seller. **Buyer is solely responsible to examine and investigate the Business**, including without limitation: 1) its assets and liabilities; 2) its financial statements and tax returns; and/or 3) any other facts or data which might influence Buyer's purchase decision or influence the price Buyer is willing to pay to purchase the Business. Any decision by Buyer to purchase the Business shall be based **solely** on Buyer's own investigation and that of Buyer's tax and other advisors and not that of Broker. Buyer acknowledges responsibility to perform due diligence at Buyer's expense prior to completion of purchase.
9. Buyer agrees to cooperate with Broker in carrying out the purpose of this Agreement, including notifying Broker regarding interest in or activity regarding a Business represented and/or submitted by Broker to Buyer for consideration. Buyer further agrees to consult appropriate professionals for related legal, tax, and other specialized advice.
10. Buyer shall: (a) provide Broker with information as to Buyer's needs, financial ability, and other pertinent data; and, (b) allow all contacts with Seller to be through Broker and conduct negotiations exclusively and solely through Broker.

**AT NO TIME SHALL BUYER CONTACT SELLER, SELLER'S REPRESENTATIVE, AGENT OR BROKER (IF NOT CAL BUSINESS ADVISORS), EMPLOYEES, LANDLORD, SUPPLIERS, PATIENTS, OR ADVISORS IN ANY FASHION WHATSOEVER WITHOUT THE EXPRESS PERMISSION OF CAL BUSINESS ADVISORS.**



11. Buyer understands and accepts that Buyer may be asked to provide additional information about Buyer, including information about Buyer's financial history.
12. By default, Buyer gets Broker's services at no cost to Buyer; Cal Business Advisors as Broker represents Buyer as well as Seller in the acquisition of Businesses that are shown or submitted to Buyer by Cal Business Advisors. **Broker represents both Buyer and Seller, or "both sides", in almost every one of our transactions.**  
"Representation" refers only to the role of Broker; even with our representation you may have advisors such as a CPA, parents, banker, attorney, etc. You may waive our Broker representation by (a) reading the information on our website at [www.practiceconsultants.com/faq.htm#fair](http://www.practiceconsultants.com/faq.htm#fair) AND (b) submitting with this Confidentiality Agreement the signed waiver form provided there via a link.
13. Seller has entered into an agreement providing that Seller shall pay a fee to Cal Business Advisors if, during the term of that agreement, Business is transferred to a buyer. Except as authorized by Broker, **Buyer shall conduct all inquiries into and discussions about the Business solely through Cal Business Advisors and shall not directly contact the Seller or the Seller's representatives.** Should Buyer purchase all or part of the Business, acquire any interest in, or become affiliated in any capacity with Business without Cal Business Advisors' participation, or in any way interfere with Cal Business Advisors' right to collect its fee, Buyer shall be immediately liable for such fee and any other damages including reasonable attorney's fees and costs.
14. Buyer hereby grants an interest in the funds such that payment of the fee due Broker under the Listing Agreement with Seller may be paid out of proceeds from the transaction. Buyer further agrees that a copy of this Agreement shall suffice as instructions to the escrow holder, if any, with respect to the payments due Broker as a result of the purchase of the Business by Buyer or another term of this Agreement, and that Broker may submit a copy of this Agreement to the escrow holder without advance notice to Buyer.
15. Buyer acknowledges that Broker has not guaranteed the purchase of a Business. Broker may represent other buyers with respect to the same Businesses shown to Buyer. Broker will be the selling agent for any of the Businesses presented to Buyer. **Buyer acknowledges and accepts the dual agency position of Broker** incumbent upon such circumstances.
16. "Purchase Price" is defined as the total consideration paid, directly or indirectly, for Business or its assets including but not limited to: cash; cash equivalents; notes made to Seller; liabilities assumed by Buyer; real property, equipment, or intellectual property sold, licensed, optioned or leased; non-competition, employment, consulting or management agreements in excess of reasonable compensation for such services; any contingent payments; and stock or other securities received in exchange for Seller's stock or assets.



17. Buyer agrees to indemnify and defend Broker and hold Broker harmless from any and all claims, demands, proceedings, losses, damages, costs and/or expenses of any nature, including attorney's fees and/or experts' fees, and from liability to any person, which Broker incurs because of Buyer's active or passive 1) negligence; 2) representations, omissions, actions, 3) and/or inactions. The indemnity and defense of this Paragraph 15 shall inure to the benefit of Broker immediately upon Buyer's signature to this Agreement and shall not require further tender by Broker.
18. This Agreement shall be construed under California law. In the event of litigation involving Broker arising out of or relating to this Agreement, the Business, or the relationship(s) created hereunder, venue shall be exclusively in Contra Costa County, California. Buyer acknowledges that it has received good and valuable consideration for this exclusivity in venue. In the event of litigation (including arbitration and administrative proceedings) involving Broker arising out of or relating to this Agreement, the Business, or the relationship(s) created hereunder, the prevailing party shall be entitled to the recovery of actual attorneys' fees and costs of suit, including experts' fees, in addition to any other remedy available in law or equity; the right of Broker to recover attorneys' fees, costs of suit, and experts' fees as prevailing party is in addition to and not exclusive of the indemnity provisions set forth in Paragraph 15 herein.
19. This Agreement supersedes all prior understandings or agreements between the parties with respect to its subject matter. This Agreement sets forth the entire agreement between Buyer and Cal Business Advisors and may only be modified in writing signed by Buyer and Cal Business Advisors. To the extent allowable by law, this Agreement is binding on Buyer's heirs, personal representatives, administrators, successors and assigns. Signatures, initials and modifications communicated by email or facsimile will be considered as originals.
20. By signing below, Buyer understands and agrees to all of the terms and conditions of this Agreement.

Legal Name of Buyer (print) \_\_\_\_\_

If Buyer is not an Individual,

Name of Representative (print) \_\_\_\_\_

**Signature** of Buyer or  
Buyer's Representative \_\_\_\_\_ Date: \_\_\_\_\_

Mailing Address \_\_\_\_\_  
\_\_\_\_\_

Preferred Telephone  
This is my...  Cell  Home  Office  Other

E-mail \_\_\_\_\_

What type of practice are you looking for (Optometry, Family Med, Oncology, Dermatology, etc)?

\_\_\_\_\_

Geographic location desired (be as broad or specific as you like)



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Amount available for down payment

\$ \_\_\_\_\_

PLEASE READ THIS: You are not committing to use all of this. You may want to hold a portion of this amount in reserve for working capital. It just helps guide us regarding your ability to purchase certain practices. Do not include funds that you would have to borrow from a commercial lender for the purchase; the amount you show should be what you and your family and maybe a HELOC on you house can come up with. We do not share this information with sellers or anyone else.

Is there anything in your credit history, excluding education debt, which may make conventional funding difficult to obtain, such as a bankruptcy or low credit score?

Yes  No If Yes, please explain on another sheet so we can work on this early.

Buyer is an    OD MD

DO \_\_\_\_\_ with the following specialty:

\_\_\_\_\_

What professional school did you graduate from?

What year? \_\_\_\_\_

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License number(s) and state(s) of issue: \_\_\_\_\_

If there anything else we should know about you at this time, or any additional information you would like us to have about your search, please don't hesitate to include another page with this Confidentiality Agreement.

Please note that if you decide to make an offer, you will be required to provide a good faith, refundable, deposit with the offer. We cannot submit an offer without an earnest money deposit in hand. Typically, the amount will be 5% of the offered price or \$10,000, whichever is greater. It can be a regular personal check.