

[M&A FORM – DEFINITIVE BID LETTER]

[LETTERHEAD OF BIDDER]

[DATE]

STRICTLY PRIVATE AND CONFIDENTIAL

[NAME]
[TITLE]
[COMPANY]
[ADDRESS]

Dear [_____]:

[INSERT NAME OF BIDDER] (“[NAME OF BIDDER]”) is pleased to submit our final proposal (the “Proposal”)¹ for the acquisition of the [INSERT NAME OF COMPANY (the “Company”)] OR [certain assets of the Company (the “Assets”)] for a purchase price of \$[_____] [payable in cash], subject to the terms and conditions set forth below.²

1. Structure of the Transaction. [INSERT: Describe the structure that the bidder would use to effect the transaction.]

2. Purchase Price. [INSERT: Describe the form the purchase price will take and whether it was derived on a debt, tax and/or cash-free basis. If the bidder expects to include any purchase price adjustments, then describe such adjustments here.] This purchase price is based upon the financial statements and other due diligence materials provided to us being true, accurate and complete. In addition, the purchase price is based upon our current understanding of the liabilities of the Company, and such matters as [cash on hand, debt of the Company,] [condition of the Assets] being satisfactory to us.

3. Financing. [Our offer is not subject to financing as [INSERT NAME OF BIDDER] has sufficient cash reserves to consummate the proposed acquisition.] OR [INSERT: Describe how the bidder will fund the purchase price.]

[We have attached a financing letter from [INSERT NAME OF FINANCING INSTITUTION]. Please call [NAME] at [INSERT NAME OF FINANCING INSTITUTION] at [TELEPHONE], if you have any questions. We believe that [INSERT NAME OF FINANCING INSTITUTION] could deliver a commitment letter to us within [X] weeks.]³ OR

[[INSERT NAME OF BIDDER] is highly confident of its ability to provide the Company with definitive financing commitments to fund the acquisition.]

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1. Consider whether to use the term “Offer”.
 2. If the purchase price is payable in a form other than cash, be sure to describe such form fully in Section 2 below.
 3. This paragraph should be inserted only if the bidder is certain that the named financing institution will deliver a commitment letter and that a commitment letter is necessary. It is often difficult and expensive to obtain a meaningful commitment letter from a financing institution.