

CONFIDENTIAL

July ?, 2014

Geoff Wolf, President  
Durango Natural Foods Co-op  
575 E 8<sup>th</sup> Avenue  
Durango, CO 81301

Re: Non-Binding Letter of Intent for Purchase of the Assets of Durango Natural Foods Co-op,  
Durango, CO.

Dear Mr. Wolf,

This Non-Binding Letter of Intent will summarize and outline the general terms and conditions under which the undersigned, (the "Buyer"), proposes to acquire the assets of the Durango Natural Foods Co-op food store located at 575 E 8<sup>th</sup> Avenue, Durango, CO (the "Business"), owned by Durango Natural Foods Co-op (the "Seller"). The principal terms and conditions include the following:

- 1) The assets to be purchased will be all assets used by the Seller in the Business and shall include all real property, personal property, all intangible assets, customer lists, contract rights, distribution rights, formulations, patents, licenses, advertising information and material, marketing materials, equipment, fixtures, supplies and other assets used in such Business and inventory (the "Assets"). The Assets shall be transferred free and clear of all liens and encumbrances, and the Buyer will not assume any liabilities of any kind, including, but not limited to, employment agreements or any qualified or nonqualified plans.

The following is a preliminary estimate and breakdown of Seller's assets and liabilities:

Assets:

Cash in bank	\$73,767
Accounts Receivable	\$2,102
Deposits	\$7,853
Inventory (Cost)	\$122,533
Equipment and Fixtures (Book Value)	\$26,821
Building and Land (Appraised Value)	\$675,000
Total Assets:	\$900,000

Liabilities:

Accounts Payable and Current Liabilities	\$96,505
Building and Land Mortgage FNBD	\$302,043
Total Liabilities:	\$398,548
Excess Assets over Liabilities	\$509,528
Net Value of Building and Land	\$372,957

- 2) Except as set forth in the Definitive Agreement with respect to the Buyer's assumption of the obligation and performance of certain expressly assumed contracts, the Buyer will not assume any of the obligations or liabilities of the Business or Assets, including accounts payable of Seller.
- 3) Upon liquidation and dissolution of the Business, Buyer will work with Seller to formulate a plan that comports with Section 9.4 of Seller's Bylaws, which may include allowing Seller's former members some period of free ownership in Buyer's new business according to the members' contributions to the Business.
- 4) Seller understands that DNF's current employees will cease to be employed by DNF. Buyer will make a good faith effort to rehire and retain Seller's former employees and shall, credit Seller's former employees that Buyer rehires with time worked at the Business for purposes of determining vacation benefits under Buyer's employment benefit policies. Buyer will make a good faith effort to continue to offer to Seller's former employees that Buyer chooses to rehire similar or increased compensation and similar or better health care compared with the compensation and health care currently offered by Seller to Seller's employees, insofar as so doing comports with Buyer's business plan. Seller shall pay and be liable for all severance pay or other termination compensation, past wages or salaries, accrued vacation or sick leave or retirement, pension, profit-sharing or other welfare benefit plan benefits or other benefits or compensation of its employees that accrued prior to Closing. Buyer shall not assume any such obligations or liabilities and shall have no obligation or liability in that regard and Seller shall defend, indemnify and hold Buyer harmless from any such liability or obligation.
- 5) The proposed purchase price for the Assets is the amount required to retire all of Seller's liabilities and the amount required to fund its dissolution (collectively, the "Purchase Price"). The Purchase Price shall be paid in cash at closing.
- 6) Independent of the Purchase Price, the Buyer agrees that the Seller is receiving consideration through the closing of this transaction in the form of the following:
  - a. Owners of the Seller's cooperative shall receive a period of free ownership in the Buyer's cooperative;
  - b. Owners of the Seller's cooperative shall receive the competitive retail pricing and margins on products offered by the Buyer in its other similarly situated stores;
  - c. Employees of the Seller that are hired as Buyer's employees shall receive the same employment benefits of all similarly situated employees of the Buyer, which are equal to or greater than the current employment benefits of the Seller;
  - d. Buyer anticipates, but does not guarantee, that it will continue to be in the financial position to offer dividends to future members of the Seller's cooperative, including the members that are converted from the Seller's cooperative; and
  - e. Buyer shall make reasonable efforts to make future investments in capital projects at the location of Seller's current retail store at a level that is similar to the capital investments at its other retail stores.

- 7) Buyer shall make a good faith effort to keep the name of the new business “Durango Natural Foods” after Closing.
- 8) Buyer shall make a good faith effort to put at least as much investment in Seller’s former Business as Buyer does in Buyer’s other retail stores
- 9) Mutual Confidentiality Agreement: The acquisition of the Assets shall be subject to completion of financial, technical and legal audits and due diligence to confirm that the Assets and liabilities, obligations, revenues, client relations, customer base and business operations are as represented and as expected and are satisfactory. The Buyer requests access to certain of Seller’s information, some of which information may be Confidential. The Confidential Information to be disclosed to Buyer can be described as and includes:

Technical and business information relating to Seller’s proprietary ideas, patentable ideas, copyrights and/or trade secrets, existing and/or contemplated products and services, software, schematics, research and development, production, costs, profit and margin information, financial information and financial projections, customers, clients, marketing, cooperative owner information, and current or future business plans and models, regardless of whether such information is designated as “Confidential Information” at the time of its disclosure.

In addition to the above, Confidential Information shall also include, and the Buyer shall have a duty to protect, other confidential and/or sensitive information (a) disclosed by Seller in writing and marked as confidential (or with similar designation) or (b) disclosed by Seller in any other manner identified as confidential in a written memorandum delivered to Buyer within (30) days of disclosure.

For a period of 60 days from the date this letter is signed, Seller will give the Buyer and its counsel, accountants and other representatives reasonable access during normal business hours to all books, contracts, documents and records with respect to its affairs as the parties may mutually agree. Without limiting the foregoing, Seller shall disclose any and all environmental issues, studies, remediation activities and monitoring and all Colorado Department of Public Health inspection reports, violations, remediation activities and monitoring with respect to the Business and/or the Assets. Seller will provide the Buyer, its employees and agents, including attorneys and accountants, reasonable access to all of the accounts, books, tax returns and other business records of the business after the signing of this letter of intent. In addition, the Buyer shall be granted reasonable access during this period to the Business premises and to certain employees upon prior notice to and consent of the Seller and the Seller shall be allowed to accompany the Buyer on all inspections of the premises and/or meetings with the employees. The terms of this letter of intent and all such information received by the Buyer in connection with acquisition set forth herein, including in this Section 8, shall be maintained as Confidential Information..

The Buyer may only use any and all information acquired as a result of this transaction, including information acquired under this Section 8, STRICTLY for purposes of evaluating the potential transaction. No information or documentation obtained by Buyer from Seller, including, without limitation, Confidential Information, shall be used for any other purpose besides evaluating the potential transaction. If the terms of this Section 8 are violated in any way, Buyer understands that it may be difficult for Seller to determine quantity of damages suffered by Buyer’s violation of this Section 8, and as such, Seller agrees that Buyer shall have the right to seek injunctive relief, including, temporary restraining orders, against Seller for violations of this Section 8 in addition to damages for such violations.

The agreement to protect Confidential Information imposes no obligation on the Seller with respect to confidential information (a) that was in Buyer's possession before receipt from the Seller; (b) is or becomes a matter of public knowledge through no fault of Buyer; (c) is rightfully received by Buyer from a third party not owning a duty of confidentiality to the Seller; or (d) is independently developed by Buyer.

- 10) To the extent costs related to this transaction are not included in the Purchase Price, each party shall be responsible for and shall pay its own costs and expenses in connection with the completion of this transaction. Neither party has engaged the services of or is responsible to pay a broker with respect to the acquisition. Any such fees incurred by either party shall be the absolute responsibility of the party responsible for incurring such fees.
- 11) The acquisition of the Assets shall be subject to the negotiation and execution of a mutually acceptable Definitive Purchase and Sale Agreement (the "Definitive Agreement"). The Definitive Agreement shall contain mutually acceptable representations, warranties, covenants, and other provisions customarily found in an asset purchase agreement. Subsequent to the execution of this letter of intent, the parties will work together to execute the Definitive Agreement by September 15, 2014. The closing of this proposed transaction should occur on or about October 1, 2014 (the "Closing").
- 12) The Definitive Agreement shall provide, in addition to customary closing conditions, that Closing is subject to the satisfaction of the following conditions, unless waived in writing by the Buyer:
  - a. From and after the date of the letter of intent, there shall have been no material adverse change in the Business, Assets, operations or prospects of the Business and/or Assets prior to the Closing. Buyer recognizes that Seller has included its approved budget a line item for capital expenditures and Seller agrees that Buyer shall continue to proceed with the previously approved capital expenditures.
  - b. Approval of the purchase of the Business and the Assets by Buyer's Board of Directors.
  - c. Approval of the sale of the Business and the Assets by Seller's membership and Board of Directors.
- 13) This letter of intent reflects the current state of discussions regarding the Buyer's interest in purchasing the Assets, Sellers' willingness to sell the Assets, and supersedes all prior discussions or correspondence concerning this transaction, but it does not contain all matters upon which agreement between the parties must be reached in order for the transaction to be consummated.
- 14) In addition to the conditions discussed herein and any others to be contained in the Definitive Agreement, consummation of the acquisition would be subject to Seller having conducted the 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 the Business, its financial condition or prospects.
- 15) The parties agree that except for the provisions relating to confidentiality in Section 8, the provisions of this letter of intent are non-binding and are not intended to create any legally binding contract, obligation or commitment on the part of any party. This letter of intent shall not be construed as a commitment or agreement on the part of any party to consummate the

Definitive Agreement, but shall constitute solely a letter of intent having the purpose of setting forth certain principal terms of the transaction which are subject to further review and analysis by both Buyer and Seller, and thus subject to revision before inclusion into the Definitive Agreement. If the Definitive Agreement is not executed by September 15, 2014, then this letter of intent shall terminate without any further action on the part of either party.

- 16) This letter of intent may be executed in one or more counterparts, each of which will be deemed to be an original of this letter of intent and all of which, when taken together, will be deemed to constitute one and the same letter.
- 17) No amendment or modification of this letter of intent shall be valid unless in a writing of subsequent date hereto and referencing this Section 17 and duly executed by each the Buyer and the Seller.
- 18) This letter of intent and the acquisition is, and shall be, made under and shall be governed, construed, and interpreted by, and in accordance with, the laws of the State of Colorado. The parties hereto agree that all disputes relating to this letter of intent or the proposed acquisition shall be litigated only in applicable Colorado federal or state courts of competent jurisdiction and venue without regard to conflicts of laws rules or rulings. The parties hereto consent to the exclusive personal jurisdiction of such courts for all such purposes.

If the above proposal meets with your approval, please sign and date this letter in the spaces provided below and return a signed copy to the undersigned at the address listed. I look forward to working with you to close this proposed transaction.

Sincerely,

La Montanita Food Cooperative  
Terry Bowling  
General Manager

ACCEPTED AND AGREED

This \_\_\_\_\_ day of \_\_\_\_\_, 2014

DURANGO NATURAL FOODS CO-OP

By: \_\_\_\_\_  
Geoff Wolf, President