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IMPROVED AGRICULTURAL PROPERTY DUE DILIGENCE CHECKLIST:

This is a comprehensive checklist and not all will be required in every transaction.

I. BASIC TRANSACTION CONSIDERATIONS AND TERMS

- A. Determine Form of Transaction
 - 1. Straight Purchase
 - 2. Option
 - 3. Ground Lease
 - 4. Sale and Leaseback
 - 5. Installment Sale
 - 6. Master Lease
- B. Draft and Negotiate Letter of Intent
- C. Determine Purchasing Entity
- D. Determine Form of Purchase Agreement to Use
- E. Negotiate Critical Terms of Agreement
 - 1. Purchase Price
 - 2. Deposit
 - a. Amount
 - b. Timing
 - c. Who holds
 - d. Who receives interest
 - e. Liquidated damages
 - 3. Specific Contingencies
 - 4. Contingency Periods
 - 5. Financing
 - a. Third party
 - b. Seller carry-back
 - c. Assumption of existing loans
 - 6. Extension Rights (Closing and Contingency)
 - 7. Closing Date
 - 8. Condition of Title (Survey)
 - 9. Title Company and Escrow
 - 10. Seller Covenants
 - 11. Patents/Intellectual Property Due Diligence/Assignments

12. Representations and Warranties
 13. Indemnities
 14. Closing Costs & Commissions
 15. Proration Formulas
 16. Holdbacks for Repairs, Environmental, etc.
- G. Finalize any Brokerage Arrangements
- H. Record Memorandum of Purchase Agreement

II. CONTINGENCY PERIOD DUE DILIGENCE

- A. Title and Escrow
1. Select Title Company
 2. Order Preliminary Report and Copy of Exceptions
 - a. Specify ALTA or CLTA title policy
 - b. Request survey update
 - c. Get legible copies of exceptions
 - d. Have all easements plotted
 - e. Get copy of subdivision map
 - f. Consider requesting chain of title
 - g. Get current assessment amounts
 3. Order Survey
 - a. Select surveyor
 - b. Specify certification and scope ALTA/ACSM
 4. Review Preliminary Report and Exceptions
 - a. Liens
 - b. Restrictions
 - c. Taxes and assessments
 - d. Easements
 - e. Rights of way
 - f. Covenants, Conditions and Restrictions (CC&Rs) and Reciprocal Easement Agreements (REAs) of record
 - (1) Obtain estoppels
 - (2) Review articles, bylaws, and budgets of any association
 - g. Property description
 - (1) Are easements included?
 - (2) Are REAs included?
 5. Determine if New Easements Needed
 6. Determine if New CC&Rs or REAs Needed
 7. Review
 - a. Certification (to buyer and lender)
 - b. Encroachments
 - c. Easements
 - d. Property description
 - e. Deliver to title company
 8. Timely Object to Title Problems
 9. Determine Required Endorsements

- a. Owner's 100
 - b. Subdivision
 - c. Encroachments
 - d. Survey
 - e. Access
 - f. Inflation
 - g. Binder
 - h. Bankruptcy exclusions
10. Obtain Pro Forma Title Policy
 11. Open Escrow
 - a. Deliver deposit
 - b. Specify investments for deposit
 - c. Select escrow agent
 - d. Obtain reinsurance if necessary
- B. Debt Financing
1. Determine if Debt Financing is Necessary
 - a. Construction loan
 - b. Takeout loan
 2. Determine if Existing Loan is Assumable
 - a. Review existing loan documents
 - b. Negotiate assumption agreement
 3. Determine Availability of Bond Financing, Redevelopment Funds, or Similar Financing
 4. Consider Seller Financing
 5. Consider Secondary Financing
 6. Prepare Lender Package
 7. Contact Lenders
 8. Negotiate Terms and Loan Application
 - a. Rate, term, amount
 - b. Nonrecourse/guarantees
 - c. Transfer/assumption rights
 - d. Other terms
 9. Negotiate Loan Commitment
 - a. Commitment fee
 - (1) Cash
 - (2) Letter of credit
 - b. Conditions for funding
 10. Approve or Disapprove Financing Contingency
- C. Equity Financing
1. Determine if Equity Financing is Necessary
 2. Identify Possible Equity Sources
 3. Identify Possible Equity Structures
 4. Consider Seller as Equity Source
 5. Consider Ground Lease Structure for Equity
 6. Consider Sale/Leaseback
 7. Prepare Package for Equity Financing
 8. Negotiate Equity Documents

- 9. Obtain Firm Commitment
- 10. Approve or Disapprove Financing Contingency
- D. Environmental
 - 1. Retain Environmental Engineer or Consultant
 - 2. Conduct and Review Phase I Investigation
 - 3. Conduct and Review Phase II Investigation
 - 4. Deliver Environmental Reports as Required
 - 5. Prepare Response to Environmental Reports
 - a. Prepare remediation plan
 - b. Renegotiate seller's cleanup obligations
 - c. Obtain clearance from necessary agencies
 - d. Consider closure of underground tanks
 - e. Obtain third-party commitment to remediate
 - f. Obtain remediation cost bid
 - 6. Approve or Disapprove Environmental Contingency
- E. Lease and Contract Review
 - 1. Obtain and Review the Following Documents:
 - a. Rent roll
 - b. All leases and lease amendments
 - c. All lease guarantees and subleases
 - d. Lease concessions
 - e. Tenant and guarantor financial statements
 - f. Gross sales reports
 - g. Current rent delinquency report
 - h. Historical rent delinquency report_
 - i. Any executed letters of intent
 - j. Most recent leasing status report
 - k. Standard form lease
 - l. All service and maintenance contracts
 - m. All management contracts
 - n. All warranties and guarantees
 - 2. Prepare Estoppels for Leases and Contracts
 - 3. Deliver, Receive and Review Estoppels
 - 4. Approve or Disapprove Estoppel Contingency
 - 5. Obtain Subordination Agreements for New Lender
 - 6. Determine which Contracts will be Terminated
 - 7. Renegotiate Tenant Leases
 - 8. Conduct Manager and Contractor Interviews
 - 9. Approve or Disapprove Lease Contingency
- F. Financial Analysis
 - 1. Review and Approve the Following:
 - a. Historical financial statements
 - b. Year-to-date unaudited financial statements
 - c. Current operating and capital budgets
 - d. Historical capital expenditures
 - e. Real estate tax bills (including assessments)

- f. Aged receivables report
 - g. Insurance policies now in effect
 - h. Claims under insurance policies
- 2. Prepare Pro Forma Budgets and Cash Flows
- 3. Analyze Value on Cost, Comparable and Other Bases
- 4. Approve or Disapprove Economic Contingency
- G. Physical Inspections
 - 1. Determine Gross and Net Acreage
 - 2. Inspect Nature of Vineyard and All Other Land
 - a. Topography
 - b. Soils
 - c. Obtain and review soils report
 - d. Special conditions/cost
 - e. Drainage
 - (1) Any special requirements
 - (2) Cost of such requirements
 - 4. Inspect Water/Groundwater/Irrigation Water/Frost Protection Water
 - a. Usefulness
 - b. Flood hazard
 - c. Sensitivity
 - d. Water table
 - e. Pumps and irrigation systems
 - e. Adjudicated Basin/Sustainable Groundwater Management Act Compliance
 - f. Ponds, reservoirs
 - (1) Review all permits and entitlements
 - g. Water Rights
 - (1) Review all permits and entitlements
 - 5. Wastewater/Wastewater Treatment
 - (1) Review all permits and entitlements
 - 6. Mineral Rights
 - 7. Special Hazards
 - a. Erosion potential
 - b. Subsidence potential
 - c. Fault zones potential
 - d. Noise/vibration
 - e. Toxics/chemicals
 - f. Existing underground tanks
 - g. Unsightly neighbors
 - h. High winds
 - i. Incompatibly zoned neighbors
 - 8. Inspect Physical Improvements
 - a. Obtain and review the following reports:
 - (1) Soils and drainage reports
 - (2) Engineering reports
 - (3) Mechanical reports, including refrigeration and HVAC
 - (4) Roof reports

- (5) Asbestos reports
 - (6) Seismographic reports
 - (7) Existing plans and specifications
 - (8) Americans with Disabilities (ADA) reports
 - (9) Architect's review
 - (10) Structural engineer reports
 - (11) Contractor's reports
 - (12) Fire code reports
 - b. Review public records re: code and permit violations including use permit
 - c. Analyze feasibility of planned modifications
 - (1) Discuss with building and planning agencies
 - (2) Process permit
 - d. Inspect parking areas
 - e. Determine compliance with Uniform Building Code (UBC)
 - f. Obtain inspection by insurance company
 - g. Obtain personal property inventory
 - h. Perform UCC-3 search
 - i. Approve or disapprove inspection contingency
9. Accessibility
- a. Frontage/access streets
 - b. Ability to handle projected traffic_
 - (1) Necessity for new turn lanes, signals, and signage
 - (2) Necessity for road expansion
 - c. Distance to major freeway
 - d. Distance to shopping
 - (1) Convenience shopping
 - (2) Regional shopping
 - e. Fire access
10. Solicit Local Advice
- a. Seller(s)
 - b. Local civil/soils engineers
 - c. Planning/public works
 - d. Architects
 - e. Others
11. Utilities (Public)
- a. Water
 - (1) Availability
 - (2) Sufficient quantity/pressure
 - (3) Hook-up charges (fees)
 - (4) Separation of fire and domestic supply
 - b. Sewer
 - (1) Adequate supplies to site?
 - (2) Hook-up charges (fees)
 - c. Gas/electric
 - (1) Availability
 - (2) Cost to make available

- (3) Fees (how much, who pays)
 - d. Telephone
 - (1) Availability
 - (2) Cost to make available
 - (3) Fees (how much, who pays)
 - e. Cable TV/satellite dish
 - f. Storm drains/flood control
 - (1) Cost
 - 11. Existing Approvals
 - a. Review the following:
 - (1) All licenses, permits and approvals
 - (2) Certificates of occupancy
 - (3) Copies of any notices of violations of law
 - (4) List of litigation pending against property
 - (5) Conditional use permits
 - (6) Pending Environmental Impact Reports (EIRs)
 - b. Obtain estoppels from local agencies
 - c. Obtain new permits required for redevelopment
- H. Governmental Due Diligence
1. Analyze Political Situation
 - a. Politics of the city/county
 - b. Politics of the site
 - c. Neighborhood politics
 2. Analyze City/County Submission Process
 - a. Type and steps
 3. Analyze Zoning/Density
 - a. Presenting zoning
 - b. Likely density
 - c. Planned changes
 - d. Procedure for changing
 - e. Attitude of city officials towards changing
 4. Determine Attitude of Neighbors
 5. Investigate Growth Restrictions
 - a. Existing/Proposed
 - c. Attitudes of (1) City officials (2) Citizens
 6. Investigate Planning/Building Requirements
 7. Investigate City/County Fees
 - a. Building/permits
 - b. Subdivision/site development
 - c. Planning/zoning
 - d. Utility
 - (1) Sewers
 - (2) Water
 - (3) Electrical/gas
 - (4) Storm drains
 - e. Parks

- f. Roads/traffic
- g. Schools
- h. Special fees
- i. Special assessments
- j. Tree fee
- k. Street lighting
- l. Underground signaling
- m. Housing mitigation fees
- n. Flood control
- o. Engineering/inspection
- p. Special taxes
- q. Growth management fees

11. Review Off-Site Improvements

- a. Storm drainage
- b. Road improvement
- c. Flood control
- d. Parks improvements
- e. Special facilities
- f. Traffic signals
- g. Sanitary
- h. Underground utilities
- i. Sidewalks

12. Analyze Possibility of Development

- I. Negotiate New Contracts
 - 1. Vineyard Management
 - 2. Leases/Subleases/Licenses/Ground Leases
 - 3. Vendors and Suppliers
- J. Obtain Buyer Entity/Board Approval
- L. Other
 - 1. Obtain Appraisal
 - 2. Determine if any Current or Threatened Litigation
 - 3. Determine if any Current or Threatened Condemnation

III. CLOSING DUE DILIGENCE AND PROCEDURES

A. Form Buyer Entity

- 1. Determine Identity of Partners or Members or Shareholders
- 2. Determine Capital Contributions
- 3. Determine Percentage Interests
- 4. Determine Voting Rights
- 5. Determine Buyout Rights
- 6. Reserve Corp, LLC, or Partnership or LLC Name
- 7. Draft and Execute LLC Operating Agreement, Corporate Buy-Sell Agreement, or Partnership Agreement
- 8. File Entity Formation Application
- 9. Obtain Tax ID No.

B. Prepare Final Closing Documents

1. Grant Deed
 2. Bill of Sale
 3. Assignment of Leases
 4. Assignment of Intangibles
 5. Escrow Holdback Agreement
 6. Tax Withholding Statements
 7. Loan Documents
 8. Partnership/LLC Agreements
 9. Loan Assumptions
 10. Authority Documents
 11. Environmental Indemnity
 12. California Withholding Exemption Certificate (Form 590)
 13. FIRPTA Statement
 14. Preliminary Change of Ownership Report
- C. Prepare Escrow Instructions
1. No Transfer Tax of Record
 2. Consider Minimization of Transfer Tax
 3. Deposit of Funds
 4. Condition Closing on Termination of Contracts
 5. Condition Closing on Final Buyer Inspection
 6. Confirm Seller Authority to Sign
- D. Approve Closing Statement
- E. Finalize Title Policy
- F. Arrange for Wire Transfer of Funds
- G. Obtain Original Seller Materials
1. Keys
 2. Original Leases and Contracts
 3. As-Builts and Other Plans
 4. Guarantees and Warranties
 5. Correspondence and Financial Records
 6. Other Original Material
 7. Security Deposits
 8. Permits and Certificate of Occupancy
 9. Other Books and Records
- H. Miscellaneous
1. Termination of Designated Contracts
 2. Send Notification Letter to Tenants
 3. Confirm no Change in Condition of Property
 4. Confirm Accuracy of Seller Representations
- I. Obtain and Put in Place:
1. New Insurance Policies
 2. New Vineyard/Property Manager
 3. New Service Providers
 4. New Utility Service
 5. Terminate Designated Contracts

IV. AFTER CLOSING

- A. Prepare Closing Binder
- B. Arrange for Delivery of Executed Documents
- C. Obtain and Review Title Policy
- D. Handle Post-Closing Prorations
- E. Consider Tax Reassessment

BASIC WINERY ASSET/ENTITY ACQUISITION DUE DILIGENCE CHECKLIST:

- A. CORPORATE ORGANIZATION
 - 1. Articles of Incorporation
 - 2. Bylaws
 - 3. Recent Changes in Corporate Structure
 - 4. Shareholder List
 - a) Show Number of Outstanding Shares and Percent Owned
 - b) Stock Option or Share Appreciation Rights Plans
 - 5. Parent, Subsidiaries and Affiliates
 - 6. Shareholder's Agreements
 - 7. Minutes of the Board of Directors
- B. BUSINESS INFORMATION
 - 1. Product Offering
 - 2. Depreciation Method
 - 3. Patents/Intellectual Property
 - 4. Management Information System
- C. MARKETING
 - 1. Pricing Strategy
 - 2. Patents
 - 3. Distribution Channels
 - 4. Promotion Tactics
 - 5. Customer Base
 - a) Top Ten Customers By Product Line - Showing Volume
 - b) Market Share By Product Line
- D. BUSINESS PLAN
 - 1. Most Recent Five Year Business Plan
 - 2. Prior Business Plan
- E. FINANCIAL STATEMENTS
 - 1. 5 Years of Historical Audited Statements
 - a) Income Statement
 - b) Balance Sheet
 - c) Statement of Cash Flows
 - d) Change in Equity Statement
 - 2. Year-to-Date Internally Generated Monthly Statements
 - 3. Most Recent Five Year Projections
 - 4. Monthly Sales Projections Taking Seasonality Into Account
- F. TAX STATUS
 - 1. Historical Tax Rate
 - 2. Net Operating Losses
- G. OPERATING DATA
 - 1. Accounts Receivable
 - a) Turnover or Days
 - b) Aging
 - c) Control and Credit Policy

- d) Seasonality
 - 2. Inventory
 - a) Turnover or Days
 - b) Obsolescence Policy
 - c) Sources of Supply
 - d) Valuation Method
 - 3. Backlog
 - a) By Product Line
 - b) Five Year History
 - c) Current
 - d) Seasonal Issues
- H. CONTRACTS
 - 1. List Major Contracts by Product Line
 - 2. Terms
- I. CAPITAL EXPENDITURES
 - 1. Last Five Years
 - 2. Five Year Gross Projection
 - 3. Detailed Priority List With As Much Analysis as Possible
- J. EQUIPMENT
 - 1. List
 - 2. Age
 - 3. Appraisal
 - a) Orderly Liquidation Value
 - b) Replacement Value
- K. DEBT AND LEASES
 - 1. Lender
 - 2. Terms
 - 3. Interest Rate
 - 4. Payment Schedule
- L. LITIGATION
 - 1. Current
 - a) Description
 - b) Potential Damages
 - 2. Potential
 - a) Description
 - b) Potential Damages
- M. PROPERTY
 - 1. Description
 - 2. Recent Acquisitions or Spin-Offs
 - 3. Expansion Plans
- N. INSURANCE
 - 1. Property
 - 2. Liability
 - 3. Workman's Compensation
 - 4. Other
- O. COMPETITION

1. By Product Line
 - a) Name, Address and Phone Number
 - b) Size of Overall Company
 - c) Size of the Business Unit that is the Competitor
 - d) Market Share
 - e) Competitive Advantages and Disadvantages
 2. Trade Publications
 - a) Name, Address and Phone Numbers
- P. MANAGEMENT
1. Organizational Chart
 2. Resumes
 3. Ownership Interest
 4. Compensation and Contracts
 5. Performance Evaluation Criteria
 6. Profit or Gain Sharing Policies
- Q. EMPLOYEE RELATIONS
1. Unions
 - a) Name of Union
 - b) Name of Local President, Address and Phone Number
 - c) Copy of Contract
- R. PENSION PLANS
1. Funding Status
 2. Balance Sheet Treatment
 3. Ten Year Projected Cash Expense
- S. RETIREE MEDICAL BENEFITS LIABILITIES
1. Funding Status
 2. Balance Sheet Treatment
 3. Ten Year Projected Cash Expense
- T. ENVIRONMENTAL LIABILITIES
1. Description
 2. Phase One Studies
 3. Phase Two Studies
 4. Five Year Projected Remediation Cost
 5. Five Year Projected Compliance Cost
- U. LAST CORPORATE TRANSACTIONS
1. Description of Each
 2. Purchase and Sale Agreement of Each



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JEREMY OLSAN is the principal of Olsan Law, Inc., where he specializes in all aspects of real estate law, including real estate acquisitions and sales, commercial leasing, construction contracts, real estate development, conservation easements and mitigation banking. His expertise also encompasses business mergers, acquisitions, and sales. governance and dissolution of business entities, and the review and documentation of business and commercial contracts.

Honors, Achievements, Education, Experience: • AV Preeminent® Peer Review Rated Attorney* every year since 2012 • Northern California Super Lawyers® in 2016, 2017, 2018, 2020, 2021, 2022, and again in 2023 • Appointed in 2016 to the Executive Committee of the Real Property Law Section of the Bar by the State Bar Board of Trustees • Appointed in 2018 by the California Lawyers Association to its Real Property Law Section Executive Committee, where he now serves as an Advisor • Graduated from UC Berkeley and from McGeorge School of Law at the University of the Pacific, where he was on the Board of Editors of the Pacific Law Journal • Before law school, Jeremy was a commercial real estate agent, and served as the Executive Director of the California State Senate Advisory Commission on Cost Control in State Government.

Real Estate and Business Law Practice: Jeremy negotiates and documents all types of real estate and business transactions, including purchases, sales, leasing and construction of shopping centers, office buildings, wineries, vineyards, ranches, development and subdivision land, estate homes, conservation and other easements, and mitigation bank agreements. He also assists clients with construction contracts, land use, zoning and planning matters. Jeremy works on all aspects of business and corporate matters, including the formation, governance and dissolution of business entities and the review and documentation of both routine and complex business transactions and commercial contracts. His practice includes analyzing, negotiating and preparing asset, stock and membership interest purchase and sale agreements, partnership agreements, buy-sell agreements, real property purchase and sale agreements, leases and licensing agreements. Jeremy represents borrowers, commercial banks and other lenders in secured financing and other lending transactions, and he represents companies and their owners in stock and asset acquisitions and divestitures and other complex business and commercial transactions in the following business sectors: winery, manufacturing, retail including restaurants, wealth management, engineering, construction, and medical and dental groups and practices.

Community Service: An active community volunteer and leader, Jeremy's service includes: 2-term Chair of the Board of Directors of the Career Technical Education Foundation • Chair of the Governance Committee and Member of the Board of Directors of the Redwood Empire Food Bank • President of the Santa Rosa Downtown Market Board of Directors • Board of Directors of the Volunteer Center of Sonoma County • President of Santa Rosa's Reform Jewish synagogue, Congregation Shomrei Torah.

Pro bono legal services have included: Audubon Canyon Ranch, Calistoga Wine Growers, Ceres Community Project, Circuit Rider Community Services; Napa and Sonoma County Bicycle Coalitions, Petén Health, Sonoma County Library Foundation, Starcross Monastic Community.

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