Sale agreement: home based trading business

Date: [date]

Between:

The Buyer is: [name] of [address]

The Seller is: [name] of [address]

The Guarantor is: [name] of [address]

Contents

- 1. Definitions
- 2. Corporate seller provisions
- 3. Interpretation
- 4. Entire agreement
- 5. Agreement for sale
- 6. Transfer of contracts
- 7. The Price
- 8. Items to be delivered at completion
- 9. Completion
- 10. Stocks
- 11. Creditors and liabilities
- 12. Goods and Services Tax (GST)
- 13. Warranties by the Seller
- 14. Future activities
- 15. Confidentiality
- 16. Publicity / Announcements
- 17. Miscellaneous matters

Schedule 1: Press release

Schedule 2: Warranties

General Accounts

Assets

Trading and contracts

Information technology ("IT")

Agreement for the Sale and Purchase of the Business known as [name] This agreement is dated: [date] Personal version: The Buyer is: [name] of [private address] The Seller is: [name] of [private address] OR Corporate version The Buyer is: ABC Pty Ltd, a company incorporated in Australia [under ACN [number] and] **■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■** The Seller is: DEF Pty Ltd, a company incorporated in Australia [under ACN [number] and] = = = = = = = = = = = = The First Guarantor is: [name] of [private address] The Second Guarantor is: [name] of [private address] NOTE: The personal version is for an individual seller and not a company seller. Delete whichever does not apply. Do the same for the buyer. Throughout this agreement, we have assumed that the seller is a individual, but

It is now agreed as follows:

1. Definitions

So far as the context permit	s, the following words
"Accounts"	means the audited profit and loss account of the Business, made up to [day and month] in each year and the
"Assets"	means all tangible and intangible • • • • • • • • • • • • • • • • • • •
"Agent"	means a third party • • • • • • • • • • • • • • • • • • •
"Business"	means the [type of business] business carried
"Confidential Information"	means all information about the Business, including
	data or information relating to suppliers, product plans, •••••, ••••, ••••, ••••
	information created or arising from this agreement;
	information, comment • • • • • • • • • • • • • • • • • • •
"Contracts"	means current contracts of the
"Creditors"	means trade creditors and accrued

	•••••
"Domain Name"	means any
	[name1].com
	[name2].com
	[name3].com. au
"ISP"	means the Internet service provider;
"Last Accounts Date"	means the date • • • • • • • • • • • • • • • • • • •
"Payment Service Provider"	means the banking intermediary who provides
"Price"	means the
"Products/Services"	means the products
"Stocks"	means stocks of Products, raw materials, work in progress and finished goods, and goods for , , , , , , , , , , , , , , , , , ,
"Warranty/Warranties"	means the warranties and undertakings • • • • [13] • • • • • • • [2].
"Website"	means www.[URL] and www.[URL] and

Cor	porate seller provisions
If the	Seller is a = = = = = = = = = = = = - = = = = = =
2.1.	Every reference to the Seller shall be interpreted • • • • • • • • • • • • • • • • • • •
2.2.	The Business may •••••••••••••••••••••••••••••••••••
2.3.	Every reference to the Business shall be interpreted as • • • • • • • • • • • • • • • • • •
2.4.	Every reference to the Company
Inte	rpretation
This	agreement
3.1.	a reference to a person includes a \blacksquare
3.2.	a reference to one ••••••••••••••••••••••••••••••••••
3.3.	a reference to the knowledge, information, belief or awareness ■ ■ ■
	, ,
3.4.	a reference to a paragraph or schedule is to
	2.1. 2.2. 2.3. Interest 3.1. 3.2. 3.3.

any agreement by any party not to do or $\blacksquare \blacksquare \blacksquare \blacksquare$

3.5.

	·										
3.6.	[except where stated otherwise],										
Ent	ire ag	reement									
4.1.	Letter	party acknowledges that this agreement and the Disclosure									
4.2.		as any relevant law permits, conditions,									
4.3.	[If the Seller is a company] Each of [If the Seller is										
4.4.	The Seller warrants and undertakes that he is not										
Agr	eeme	nt for sale									
5.1.	Subject	ct to the terms of this agreement,									
	5.1.1	the Business as a going concern;									
	5.1.2	the Stocks;									
	5.1.3	intellectual property rights used in the business;									
	5.1.4	the Domain Name(s);									
	5.1.5	the Website;									
	5.1.6	all other Assets									

4.

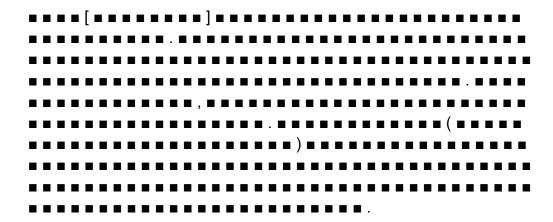
	5.2.	Completion shall take place today,
6.	Tra	nsfer of contracts
	The S	Seller undertakes that for a period of [three] year, he will do his utmost
	6.1.	enter into any novation agreement.
	6.2.	provide information about any
	6.3.	confirm to any person or governmental authority such details ■ ■ ■ ■
	6.4.	immediately inform the
7.	The	Price
	7.1.	The Price for the = = = = = = = = = = = = = = = = = = =
	7.2.	The Price shall be paid by banker's draft / • • • • • • • • • • • • • • • • • •
8.	Iten	ns to be delivered at completion
	The S	Seller shall handover to the Buyer or otherwise deliver
	8.1.	whatever Assets = = = = = = = = = = = = = = = = = = =
	8.2.	all books of account;

8.3.	computer programmes used in a a a a a a a a a a a a a a a a a a
8.4.	all data relating to the Business,
	;
8.5.	all information and records relating to customers and suppliers, including a list of all the [• • • •] • • • • • • • • • • • • • •
	;
8.6.	complete records relating to Employees, •••••[7]••••.
8.7.	[only if the seller is a limited company] signed and certified copy of the minutes
8.8.	transfers of the \blacksquare
8.9.	marketing material of every sort in any medium;
8.10.	a list of sales distributors and agents, identifying sales • • • • • • • •
	;
8.11.	all other = = = = = = = = = = = = = = = = = = =
Con	npletion
9.1.	As soon as the items listed above have passed
9.1.	
0.0	The Development of the
9.2.	The Buyer shall be •••••• .
9.3.	As soon as possible and in any event within [14 days] from the date hereof, the Seller shall procure that the Domain Names are transferred to the Buyer.

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	•••••
9.4.	As soon as possible and in any event within [two days] from today, ■ ■
9.5.	The Seller has a continuing obligation to do what is ■ ■ ■ ■ ■ ■ ■
9.6.	The Buyer shall not be obliged to
9.7.	If any or all of the transactions set out in this paragraph do not \blacksquare \blacksquare \blacksquare
Stoc	cks
10.1.	For the purpose of ***********************************
OR	
10.2.	
	•••••
AND	
10.3.	



11. Creditors and liabilities

11.1.	 	 	 	 	 	
	 	 	 	 	 	l

OR

11.2.	_		_	_	_				_	_	_	_	_	_	_	_	_	_	_		_	_	_	_	_	_	_	_	_	_	_		_	_
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11.3.

11.4.

12. Goods and Services Tax (GST)

12.1.

12.2.

12.3.

13. Warranties by the Seller

13.1.

13.2.

13.3.

13.5.



14. Future activities

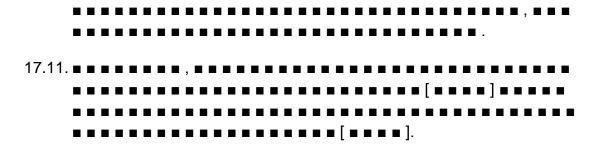
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	 	 		_ , -				 	 	•	
14.1.		 						 	 		
		 			ı ■ [:	3]■		 			
14.2.											
	 	 									 -
	 	 	[= =			= =]		 	 . = =		
	 	 					■,∎				 •
	 	 			-			 	 		
14.3.											
14.3.									 		
	 	 • • •					■;				
14.4.											
14.4.											
		•••									

15. Confidentiality

15.1. The Seller now undertakes that he will:

16.	Pub	licity / Announcements
	16.1.	
	OR	
	16.2.	No party shall:
		16.2.1 make any public announcement; or
		16.2.2 disclose any information; or
		16.2.3
	16.3.	
	. 0.0.	
17.	Mis	cellaneous matters
	17.1.	
	17.2.	
	17.3.	

17.4.	
17.5.	
17.6.	
17.7.	
47.0	
17.8.	
	It shall be deemed to have been delivered:
	;
	••••72 •••••••;
	••••••••••••••••••••••••••••••••••••••
	■ ■].
17.9.	
47.40	
17.10	



Signed by [personal name] on behalf of [named Seller] as its / his representative who personally accepts liability for the proper authorisation by [named Seller] to enter into this agreement.

Signed by [personal name] on behalf of [named Buyer] as its / his representative who personally accepts liability for the proper authorisation by [named Buyer] to enter into this agreement.

OR

Signed by [Seller name in full]

AND

Signed by [Buyer name in full]

Schedule1 - Press release

[Set down the text you have agreed.]

Schedule 2: Warranties

General

■ ■ .
■ , ■ ■ ■ ■ .
• • • •

Accounts

•																										
6.																										
	•								- 1	-		•	- 1		•						-					
	- 1			 •	•																					
7.			•	 						 	_					_						_				
8.	•	-		 					- 1	 			- 1				•							■ ,		
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	= 1						•		- 1	 •			- 1	•		-		- 1						- 1	•	•
	•	-		 •			•		- 1	 •			- 1	•			•	- 1						- 1	•	•
			_													_					_					

Assets

- 9. All Assets:
 - 9.1. are transferred by this agreement and
 - 9.2. are owned outright by the Seller.

	9.3.																	-
10.	■[■	••••	••••	• • •	•••	• • •		•••	•••		■ ■ \$[•	••		• •]] •	••			
Tradi		d contra	ıcts															
11.		••••							••	••				•				•
12.	• • • •].	••••	•••	•••	•••	• • •	••	••	••				-	•[•	•	••		
13.																		
14.					, ■ ■											• •		
	•••	••••	■.															
15.		• • • • •						••	••	••			-					
16.	•••																	
10.	:::			•		• • •					••				••			
Inforn	nation	techno	logy ("	'IT")														
17.	• • • • :		•••	• • •		• • •								•				
	17.1.	domaiı	n name	:														
	17.2.	name a	and cor	ntact i	inforr	matic	on of	regi	istra	r:								
	17.3.	••••	• • • •	•••			.	• •		•			• •	••	••		• •	-

18.	
19.	
20.	
	20.1.
	20.2. technical, customer and client support services;
	20.3.
	;
	20.4. an email service provider.
21.	
22.	

17.4. date to which the name is registered.

End of Warranties

Explanatory notes:

Sale agreement: home based trading business

General notes

1. Parties named

In naming a party at the top of the document, the personal version is for an individual seller and not a company seller. Delete whichever does not apply. Do the same for the buyer. Throughout this agreement, we have assumed that the seller is an individual but if it is a ***** *****

2. Advantage to the buyer

This document is usually drawn and submitted by the buyer to the seller. If you are the seller, you have a great advantage if you are able to present this draft to

3. Warranties

The seller has a reason to sell. That may not be the reason he has given to you. The only way you can cover yourself is through the warranties. An agreement for the sale and purchase of a business or a company is all about the warranties. What you ask in warranties, and what the seller replies in the disclosure letter are of great importance. If a warranty does not apply, delete it. Generally, do

4. Initial extra pages

Paragraph specific notes

(some points are covered in the Warranties • • • • • •)

1. Definitions

	Please read the general notes sent along with $\blacksquare \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare$.
	For "Confidential Information", we have provided a very full menu of items. Depending on your business,
	But if you do change any defined word, make sure it applies to every capitalised use
	You should first decide on the contents of the document , then return to check what definitions are needed and whether they really •••••••••••••••••••••••••••••••••••
2.	Corporate seller provisions
	This paragraph enables the references to "Business" to have legal meaning when the legal reality is that a "business" does not exist. It cross references the parties and obligations back to the seller company. If the seller in
3.	Interpretation
	Leave these items in place unless there is a good reason to edit or remove. Each of these items has been carefully considered in the context of this agreement and has been included for a purpose.
4.	Entire agreement
	This paragraph prevents a party from later saying he was relying on some other document or web
5.	Agreement for Sale
	There is an overlap in this list: use
6.	Transfer of Contracts
	If you buy a business as a going concern, you need to be sure that every person with whom the business deals, comes with it. It is generally impossible to fix up contract transfer arrangements in advance of the purchase, so this paragraph covers
	,

The Price
The buyer may wish to apportion the purchase price among the assets so that if by chance some item is not available on completion, there is some yardstick
Items to be delivered at completion
It is essential for a smooth transaction that the seller assembles absolutely all the documents which will be needed on completion. It is a good idea to ask the seller for a list
It is not of course necessary to physically move or hand assets to the buyer. Delivery means delivery of possession. Some assets may of course be handed over physically,
The necessity to transfer rights and contracts with third party suppliers causes problems. Issues arise because Internet service suppliers usually operate on inflexible standard terms. Many have no procedure for fast transfer of their service. This puts a business buyer in a difficult position. Take a payment
The necessity to transfer rights and contracts with third party suppliers causes problems. Issues arise because Internet service suppliers usually operate on inflexible standard terms. Many have no procedure for fast transfer of their service. This puts a business buyer in a difficult position. Take a payment
The necessity to transfer rights and contracts with third party suppliers causes problems. Issues arise because Internet service suppliers usually operate on inflexible standard terms. Many have no procedure for fast transfer of their service. This puts a business buyer in a difficult position. Take a payment
The necessity to transfer rights and contracts with third party suppliers causes problems. Issues arise because Internet service suppliers usually operate on inflexible standard terms. Many have no procedure for fast transfer of their service. This puts a business buyer in a difficult position. Take a payment service provider.

9. Completion

7.

8.

Alternatively, the buyer should open his own separate account with

It is a matter of negotiation and agreement as to the mechanics of completion and in particular when final issues are to be completed. Leasehold property will have been dealt with in advance, but domain names may present more difficulty since there are no provisions for a conditional transfer. The buyer has to decide how long
The power to rescind is very strong. Usually, when a buyer has taken control of ••••••••••••••••••••••••••••••••••
Stocks
Stock can be anything, so the agreement is drawn in broad terms. In practice, there will be occasions when ten people employed by auditors will be needed to count the stocks and other occasions when
Creditors and liabilities
Creditors and liabilities We think this is a good arrangement but
We think this is a good arrangement but ••••••••••••••••••••••••••••••••••
We think this is a good arrangement but ••••••••••••••••••••••••••••••••••
We think this is a good arrangement but Goods and Services Tax (GST) Sale of business as going concern from one registered person to another registered person is zero-rated Goods and Services Tax (GST)

10.

11.

12.

To claim for breach of warranty the buyer must prove money loss. He is also under a duty of care to reduce his loss so far as
Future activities
The buyer should never take the seller's word for the proposition that the seller will not compete and will say only good things about the buyer and the business.
Confidentiality
Warranties cover only matters that exist at the date of the sale. The future must be covered separately.
•••••
Publicity / Announcements
Edit or delete.
Miscellaneous Matters
A number of special points. We have identified each of these as important to

14.

15.

16.

These are just as valid in 	
Notes on the schedules	
Schedule 1 - Press release	
Provide text or delete if not required	
Warranties: drafting notes continued	
t is good practice to delete irrelevant warranties,	
General	
These are very = = = = = = = = = = = = = . = = = = =	
With reference to licences and consents: in any business which has been operating for more	
Accounts	
The basis of valuation of the business is likely to have been the last audited annual accounts,	
Assets	
The most important answers sought here are as	

We have placed these under a separate heading to cover the special provisions which apply to them.	-
Information technology ("IT")	
The buyer's requirement for details of customers and suppliers will be = = = = = = = = = = = = = = = = = = 	
,	. =
	•
cleaner and the car leases. Particular care should be taken with ■ ■ ■ ■ ■ ■ ■ ■ ■	-

End of notes