# Business sale agreement: café or sandwich shop

Date: [date]

Between:

The Buyer is: [name] of [address]

The Seller is: [name] of [address]

### **Contents**

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

The Schedule 1: Leasehold Property

The Schedule 2: Warranties

General Accounts Assets

Trading and contracts Leasehold Property

Information technology ("IT")

This agreement is dated: [date]
The Buyer is: [name]

Agreement for the Sale and Purchase of the Business known as [name]

of [private address]

The Seller is: [name]

of [private address]

The Guarantor is: [name]

of [private address]

It is now agreed as follows:

#### 1. Definitions

So far as the context permits, 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

.......

"Agent" means a third party who has contracted to re-■ ■

"Assets" means all tangible and intangible assets

whatever, owned by the  $\blacksquare$   $\blacksquare$   $\blacksquare$   $\blacksquare$   $\blacksquare$   $\blacksquare$   $\blacksquare$   $\blacksquare$ 

. . . . . . . . . . . . .

"Business" means the [type of business] business carried on

"Confidential Information"	means all information about the Business, including any information which may give a commercially competitive advantage to
	data or information relating to suppliers, product plans, marketing strategies, finance, performance, operations, customer • • • • ;
	information created or arising from this agreement;
	information, comment or implication published on
"Contracts"	means current contracts of the
"Domain Name"	means any • • • • • • • • • • • • • • • • • • •
	[name1].com
	[name2].com
	[name3].com. au
"ISP"	means the Internet service provider;
	•••
"Last Accounts Date"	means the date
"Lease"	means the lease or leases under
"Price"	means the •••••••••••••••••••••••••••••••••••
"Property/Properties"	means the •••••••••••••••••••••••••••••••••••
"Stocks"	means stocks of Products, raw materials, work in

	progress and finished goods, and goods for ■ ■ ■
	,
"Warranty/Warranties"	means the warranties and
"Website"	means www.[URL] and www.[URL] and ■ ■ ■ ■

# 2. Interpretation

This agreement		
2.1	a reference to one ••••••••••••••••••••••••••••••••••	
2.2	a reference to the knowledge, information, belief or awareness ■ ■ ■	
	, ,	
2.3	a reference to a paragraph or schedule is to	
2.4	any agreement by any party not to do or	
	<b>.</b>	
2.5	[except where stated otherwise], $\blacksquare$	

3.	Enti	re agreement
	3.1	Each party acknowledges that this agreement contains the entire ■ ■ ■
	3.2	So far as any relevant law permits, conditions,
		,
	3.3	The Seller warrants and undertakes that he is not
		•••••
4.	Agre	eement for sale
	4.1	Subject to the terms of this agreement,
		:
		4.1.1 the Business as a going concern;
		4.1.2 the Stocks;
		4.1.3 the Domain Name(s);
		4.1.4 the Website;
		4.1.5 all other Assets
	4.2	Completion shall take place at date • • • • • • • • • • • • • • • • • • •
	4.3	The assignment of the leasehold
<b>5</b> .	Tran	nsfer of contracts

The Seller undertakes that for a period of [three] year, he will do his utmost ■

		,,
		:
	5.1	enter into any novation agreement.
	5.2	provide information about any
	5.3	confirm to any person or governmental authority such details ■ ■ ■ ■
		••••
	5.4	immediately inform the
6.	The	Price
	6.1	The Price for the Business • • • • • \$ [ 00 , 000 ] [ • • • • / • • • • • • • ].
	6.2	The Price shall be paid by banker's draft / • • • • • • • • • • • • • • • • • •
7.	Iten	ns to be delivered at completion
		Seller shall handover to the Buyer or otherwise deliver
	7.1	whatever Assets are
	7.2	all books of account;
	7.3	computer programmes used in <b>*****</b> , <b>****</b> ;
	7.4	all information = = = = = = = = = = = = = = = = ;
	7.5	transfers of the <b>= = = = = , = = = = = = = = = = = = = </b>

	7.6	assignment of the leasehold Property [unless = = = = = = = = = = = = = = = = = =
		];
	7.7	marketing material of every sort in any medium;
	7.8	all other •••••••.
8.	Cor	mpletion
	8.1	As soon as the items listed above have passed • • • • • • • • • •
	8.2	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.
	8.3	As soon as possible and in any event within [two days] from the ■ ■ ■
	8.4	The Seller has a continuing obligation to do what is $\blacksquare$ $\blacksquare$ $\blacksquare$ , $\blacksquare$ $\blacksquare$ $\blacksquare$
	8.5	The Buyer shall not be obliged to
		•••••
	8.6	If any or all of the transactions set out in this paragraph do not ■ ■ ■ ■

......

9.	Creditors	and	liahi	lities
J.	Ci Guiloi 3	anu	наы	แนธอ

9.	Creditors and liabilities		
	9.1	The Seller shall immediately discharge all the debts of the	
	9.2	After the date of this agreement, the Buyer must discharge the outstanding obligations and liabilities of the Seller under ■ ■ ■ ■ ■	
	9.3	The Buyer shall not be liable for any breach of any contract by the Seller before	
10.	God	ods and Services Tax (GST)	
	10.1	The parties shall procure that the sale of the Business is deemed to be	

The parties shall procure that the sale of the Business is deemed to be

10.2 The Seller shall immediately deliver to the Buyer ■ ■ ■ ■ ■ ■ ............... 

10.3 The Buyer shall for a period of not less than [7 years] from ■ ■ ■ ■ ■

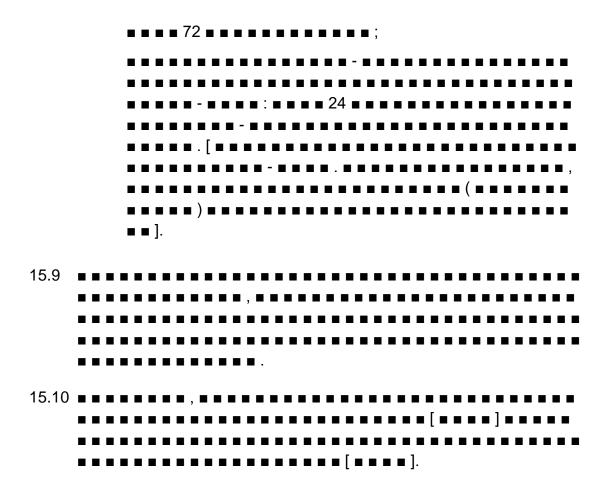
## 11. Warranties by the Seller

11.2	Where any Warranty refers to the knowledge, information
11.3	The Seller agrees to indemnify the Buyer against all costs claims
11.4	Except in the case of death or personal injury, the total liability of the Seller under
11.5	The Warranties in this agreement are not
Ol	R
11.6	The Warranties in this agreement are not limited in monetary value, but no claim • • • • • • • • • • • • • • • • • • •
Futu	ure activities
In ord	ure activities er to give the
In ord	ure activities
	11.4 11.5

	12.3	trade under any name • • • • • • • • • • • • • • • • • • •
	12.4	register nor purchase nor use any Internet domain
13.	Con	fidentiality
	13.1	The Seller now undertakes that he will:
		13.1.1 except as provided in this <b>***</b> , <b>**</b> , <b>***</b> , <b>**</b> , <b>***</b> , <b>**</b> , <b>***</b> , <b>**</b> , <b>***</b> , <b>**</b> , <b>***</b> , <b></b>
		13.1.2 not use the Confidential
		13.1.3 not post on the Internet any Confidential Information.
	13.2	1 5 1
14.	Pub	licity / Announcements
	14.1	
	OR	
	14.2	No party shall:
		14.2.1 make any public announcement; or
		14.2.2 disclose any information; or
		14.2.3

# 15. Miscellaneous matters

15.1	
45.0	
15.2	
15.3	
15.4	
10.1	
15.5	•••••
15.6	
13.0	
15.7	
15.0	
15.8	
	•••••
	It shall be deemed to have been delivered:
	■■■;



Signed by [Seller name in full]

AND

Signed by [Buyer name in full]

Schedule 1:	Leasehold Property
	,,
	,
2	
■.	
	• • • • • • • • • • • • • • • • • • • •
OR	
■.	
	,
	, <b></b>

OR

8.	•••																
			 ••	-	-	 -		• .									
AND																	
9.		 	 		 	 •					 	•		 •	■ ,		l
	9.1	::		••						•				-			
	9.2	••								•			-	 	• •	• •	•
						·											
	9.3	••															
		::				■ ,	•		-						J <b>=</b>	- =	
	9.4	 	 		 						 I <b>=</b> 1			 			
		••															
		••				 				_	 _			_			_
	9.5																
		••									■ [	7 ∎		■ ]		•	
	9.6	 	 		 	 			_				_	 			_
	0.0																
		 ••			 						 						
		••															
		••															
		 	 		 					_	 						
		•															
		 	 		 	 				_	 _		_	 			_

Witness to signature:
Name:
Address
Signed by [personal name], duly authorised for the Buyer
Witness to signature:
Name:
Address
Signed by [personal name], the Guarantor
Witness to signature:
Name:
Address

### The Schedule 2: Warranties

Gene	ral																													
1.	:::																													
2.	:::																													
Acco	unts																													
3.											•	•	-	- 1		•					-			•	-	•	•		•	
4.				•		•	•	- 1	• •		-				• •	-		-												
5.	•••						-	<b>■</b> ;	• •	•	-	•		- ·	•	-	•	-				•	•					-	<b>=</b> 1	
	•••																													
Asset																														
6.	•••																		•										I <b>■</b>	
7.	:::				••		•	- ·	• •		-	-		<b>.</b> .		•	-	-	<b>.</b> .			-	-	•	<b>=</b>		<b>.</b> .	• •	ı <b>■</b>	
8.	•[•															•	•		- • \$	_										
Trod:	•••	Ι.			-	- '			· 1 ·											- '								- '		. •
	ng an	u C0	ritra	act	<b>5</b>																									
9.					••			<b>■</b> ,														-								

10.		
Lease	hold Property	
11.		
12.		•
13.		
14.	••••••	
15.		
16.		
17.		
	17.1	_
	;	
	17.2.	
18.	• • • • • • • • • • • • • • • • • • •	
19.		
20.	As to the Leases:	
	20.1.	
	•	

20.2. there are no rent reviews in progress.

21.	•••	
	•••	
Infor	mation	technology ("IT")
22.	•:	
	22.1.	domain name:
	22.2.	name and contact information of registrar:
	22.3.	
	22.4.	date to which the name is registered.
23.	•••	
24.	•••	
	•••	
25.	•••	
	25.1.	
	25.2	an email service provider.
26.	∠∪.∠.	
<b>2</b> 0.		:[]

**End of Warranties** 

## **Explanatory notes:**

Business sale agreement: café or sandwich shop

#### **General notes**

#### 1. 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

#### 2. 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

#### 3. Initial extra pages

# **Paragraph Specific Notes**

#### 1. Definitions

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 <b>first decide on the contents of the document</b> , then return to check what definitions are needed and whether they really $\blacksquare$
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.
Entire agreement
This paragraph prevents a party from later saying he was relying on some other document or web site or what was said. If other documents are to be relied on (if any), let them be ••••••••••••••••••••••••••••••••••
Agreement for sale
There is an overlap in this list: use the descriptions that are most $\blacksquare$
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 best way to deal after the event. The most crucial part is the co-operation of the seller. If he
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

2.

3.

4.

5.

6.

7.

It is essential for a smooth transaction that the seller assembles absolutely all

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 service provider.
We suggest that the best way must be to put the obligation on the seller to get all service changes in place, subject to a telephone call, which can be made on the same day as completion of the
Alternatively, the horsensh and because his own consists account with
Alternatively, the buyer should open his own separate account with
Completion
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

© Andrew Taylor and Net Lawman Ltd

....., ......) .........

8.

	The power to rescind is very strong. Usually, when a buyer has taken control of — — — — — — — — — — — — — — — — — —
9.	Creditors and liabilities
	We think this is a good arrangement but ••••••••••••••••••••••••••••••••••
10.	Goods and Services Tax (GST)
11.	Sale of business as going concern from one registered person to another registered person is zero-rated therefore it
	This paragraph - confirmation of the warranties - is critical to
	This paragraph provides for the warranties to be given by the seller.  Generally, it is good practice to delete irrelevant warranties, but
	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
12.	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. The seller should be bound to appropriate "good behaviour". A covenant (promise) not to compete is not enforced by the courts unless it is reasonable in

Confidentiality

13.

	Warranties cover only matters that exist at the date of the sale. The future must be covered separately. Confidential information is defined as that relating to the business, so this paragraph protects the secrets of the ■ ■ ■
14.	Publicity / Announcements
	Edit or delete.
15.	Miscellaneous matters
	A number of special points. We have identified each of these as important to protect you. Some are relevant to particular paragraphs in the document, some apply more
	These are just as valid in
Note	es on the Schedules
Sched	dule 1 - Leasehold Property
Lease	chold property: we have provided • • • • • • • • • • • • • • • • • •
•	A lease of over
•	a lease
	<b>■</b> ;
•	
	a lease of five
	a lease of five • • • • • • • • • • • • • • • • • • •
Sched	a lease of five ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■

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
Trading and Contracts
This section covers every contract - from customers and suppliers to the office cleaner and the car leases. Particular care should be taken with
The buyer's requirement for details of customers and suppliers will be • • • • • • • • • • • • • • • • • •

Leasehold Property
Most of these items cover the facts that would be
Information technology ("IT")
We have placed these under a separate heading to cover the special provisions which apply to them.

**End of notes**