IE-CPcsl03

Company purchase agreement: cash and shares, part deferred

Content

1. Definitions
2. Interpretation
3. Entire agreement
4. Calculation of the Purchase Price
5. Buyer New Shares: Buyer's obligations
6. Additional Price: calculation and payment
7. Buyer's acknowledgment of inspection
8. Agreement for Sale and subscription of Buyer New Shares
9. Completion and delivery of documents
10. Warranties applicability and limitation
11. Warranties by Sellers
12. Trustee Warranties
13. Restrictive agreement
14. Sellers' protection
15. The Guarantee
16. Publicity / Announcements
17. Miscellaneous matters

Schedule 1	Part 1 Shareholdings
	Part 2 Details of the Company
	Part 3 Press release
Schedule 2	Part 1 Properties
	Part 2 Assets
Schedule 3	Warranties
	General
	No damaging effect of this agreement
	Company structure and operation
	Accounts
	Cash flow
	Taxation
	Guarantees and borrowing
	Assets
	Trading and contracts
	Exceptional regulations
	Properties - all
	Properties let by the Company
	Employment
	Pensions
	Insurance
	Personal data protection
	Intellectual Property
	Information technology ("IT")

Agreement for the Sale and Purchase ■ ■ ■ ■ ■ ■ ■ ■ [■ ■ ■ ■]

This agreement is dated:	[date]
The Seller is:	ABC Limited, a company incorporated in Ireland [under registered number] [number] and] ■ [■ ■ ■ ■ ■ ■ ■ ■]; ■ ■ ■ ■
The Seller is:	[name] of [private address]
OR	
The Sellers are:	those persons whose names are set out in Part 1 ■ ■ ■ ■ ■ ■ ■ ■ 1 ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ .
The Buyer is:	[DEF] Limited, a company incorporated in Ireland[under registered number] [number] ■ ■ ■ ■] ■ [■ ■ ■ ■ ■ ■ ■ ■].
The First Guarantor is:	[name] of [private address]
The Second Guarantor is:	[name] of [private address]

It is now agreed as follows:

1. Definitions

So far as the context permits, the following words ■ :

"Accounting Date"	means the date of the Company have historically been prepared and to ■ .
"Accountants"	means the firm of [name of Accountants] ■ ■ ■ ■ [■ ■ ■ ■].
"Accounts"	means the financial statements, annually audited profit and loss account and balance sheet of the ■ .
"Additional Price"	means part of the total Purchase Price for the Shares, deferred until the outcome of trading of the ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ [■ ■ ■ ■] ■ ■

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■ ■ ■ ■ ■ ■ ■ ■ ■ ■ .

	■ ■ ■ ■ ■ ■ ■ ■ ■ ■ .
“Assets”	means and include collectively the fixed assets (fixtures and fittings, furniture, office equipment and motor vehicles of the Company), stock and good ■ ■ ■ ■ , ■ 2 ■ ■ ■ ■ 2 ;
“Buyer New Shares”	means the ordinary shares of €[1] each in the [Enter Buyer(company name)], to be ■ .
“Company”	Means[name of Company] Limited, the Shares in which ■ .
“Confidential Information”	means all information about the Company and parties to this agreement, including any information which may give a commercially competitive ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ . ■ :
	information about staff, their performance and ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ,
	data or information relating to suppliers, product plans, marketing strategies, finance, performance, operations, customer ■ ■ ■ ■ , ■ ■ ■ ■ ■ ■ ■ ■ , ■ ■ ■ ■ ■ ■ ■ ■ , ■ ■ ■ ■ ■ ■ ■ ■ ;
	information owned by a third party and in respect of which a party ■ - ■ ■ ■ ■ .
	information, comment or implication published on ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ .
	information about the Intellectual Property and ■ ■ ■ ■ ■ ■ ■ ■ - ■ ■ ■ ■ .
“Disclosure Letter”	means the disclosure letter provided by the Seller to the Buyer including all such information to complete the Sale and enclosing all ■ .

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“Domain Names”	means the Internet domain names used by the Company in connection with its website or in [redacted].
“First Year Accounts”	means the accounts to be drawn to the [redacted].
“Intellectual Property”	means intellectual property owned by the Company, of every sort, whether or not registered or registerable in any country, including Intellectual Property of all kinds coming into existence after today; and including, among others, [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted], [redacted].
“Last Year End”	means [date] (being the date to which the [redacted]).
“Net Profit”	means the net profit (less losses) of the Company as shown by [redacted] ([redacted]). a) after deducting all expenses and depreciation; b) after adding added back all payments, bonuses, options and pensions and any [redacted], [redacted]; c) after adding back sums for transactions not at arm’s [redacted]; d) without taking account of capital profits or losses; e) before deducting tax on that profit.
“Properties”	means the land and buildings owned and / or used by the Company, brief details of [redacted] 2 [redacted] 1.
“Purchase Price”	means the total price, paid or to [redacted].
“Sale”	means the sale of the Shares.
“Shares”	[number] ordinary shares of €[1] each held by the

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	Sellers, being the [redacted].
“Trustee”	means [names, if few] / any Seller [redacted].
“Trustee Warranties”	means the limited warranties given by any Trustee as set [redacted] [12].
“Warranty/Warranties”	means the warranties and undertakings of the Sellers contained in paragraph [12] [redacted] [3].

2. Interpretation

In this agreement unless the context otherwise requires:

2.1. a reference to a person includes a human individual, a corporate entity, a partnership, a governmental authority [redacted].

2.2. the Sellers shall be jointly and severally liable for every [redacted].

2.3. a reference to one gender shall include any or all genders and a reference to the singular may be interpreted [redacted].

2.4. a reference to a person includes reference to that person’s successors, legal representatives, permitted assigns and any person to whom rights and obligations are transferred or pass as a [redacted], [redacted], [redacted]-[redacted].

2.5. a reference to a paragraph or schedule is to a paragraph or schedule to this agreement unless the context [redacted]. [redacted].

2.6. the headings to the paragraphs and schedules (if any) to this agreement are inserted [redacted].

2.7. any agreement by any party not to do or omit to do something includes an obligation not to allow some [redacted];

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2.8. [except where stated otherwise], any obligation of any person arising from this [redacted];

2.9. a reference to an act or regulation includes new law of substantially the same [redacted];

2.10. all money sums mentioned in this agreement are calculated net of VAT, which will be charged when due by law and payable when [redacted], [redacted].

2.11. this agreement is made only in the English language. If there is any conflict in meaning between the English language version of this agreement and any version or translation of this agreement in any other language, the English language version shall prevail. If a version of this agreement [redacted], [redacted].

3. Entire agreement

3.1. Each party acknowledges that this agreement and the Disclosure Letter [redacted], [redacted], [redacted].

3.2. Each party acknowledges and warrants that it [redacted] [[redacted]].

3.3. Each Seller warrants and undertakes that he is not [redacted].

4. Calculation of the Purchase Price

4.1. The Purchase Price is the total of:

4.1.1 the sum of €[[redacted]] ([redacted] “[redacted]”) [redacted];

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4.1.2 the sum of €[amount], payable by the [redacted] [[redacted]] [redacted] [[redacted] - [redacted]], [redacted];

4.2. The Additional Price shall be calculated [redacted] [6] [redacted].

4.3. The Sellers shall share [redacted].

5. Buyer New Shares: Buyer's obligations

The Buyer undertakes as follows:

5.1. to issue or procure [redacted] [[redacted]] [redacted].

5.2. that the Buyer New Shares shall rank [redacted], [redacted].

5.3. that each Buyer New Share [redacted] €[[redacted]] [redacted].

5.4. to procure that the Buyer New Shares shall be [redacted].

6. The Additional Price: calculation and payment

For the purpose of this paragraph "Warranted Net Profit" [redacted].

6.1. After completion of this agreement the Accountants shall be instructed jointly by the Sellers and the [redacted].

6.2. The cost of the audit and certification shall be paid as [redacted], [redacted]

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[redacted], [redacted].

OR

6.3. The cost of the [redacted].

6.4. The parties shall promptly provide to the [redacted].

6.5. The Warranted [redacted] €[147 , 000].

6.6. The Buyer agrees that it will not [redacted], [redacted], [redacted].

6.7. If the Net Profit shown by the First Year Accounts is [redacted], [redacted] [3] [redacted].

6.8. The Additional Price shall be paid by the Buyer in cash to [redacted], [redacted] 21 [redacted].

6.9. If the Net Profit shown by the First Year Accounts is less than the Warranted [redacted], [redacted], [redacted] [[redacted] € [[redacted]]].

OR

6.10. If the Net Profit shown by the First Year [redacted], [redacted].

6.11. The procedure described above, in this paragraph shall be [redacted], [redacted] [[redacted]] [redacted].

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7. Buyer's acknowledgment of inspection

The Buyer admits that:

7.1. all of the [redacted];

7.2. it has made full investigation into the title, [redacted];

7.3. it enters into this agreement on the basis of that [redacted], [redacted].

8. Agreement for Sale and subscription for Buyer New Shares

8.1. The Sellers agree to sell the Shares with full [redacted].

8.2. The Sellers acknowledge receipt [redacted] [[redacted]] [redacted].

8.3. Each of the Sellers hereby waives any pre- [redacted], [redacted].

8.4. Each Seller now hands to the Buyer a letter of [redacted] ([redacted]) [redacted].

8.5. So far as the Sellers have any powers or control of any aspect of [redacted], [redacted]; [redacted].

8.6. The Sale [redacted]:

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8.6.1 the Sellers entering into a shareholders' agreement [redacted] [redacted].

8.6.2 [Beatrice Blackbird and Robin Finch] each [redacted] [redacted].

9. Completion and delivery of documents

9.1. Completion of this Sale shall [redacted],

9.1.1 a payment receipt [bank [redacted]] [redacted];

9.1.2 letters of allotment of the Buyer New Shares;

9.2. At completion, [redacted]:

9.2.1 the title deeds relating to [redacted], [redacted];

9.2.2 title deeds, [redacted];

9.2.3 signed share transfer forms [redacted], [redacted];

9.2.4 [if the Company [redacted]] [redacted];

9.2.5 letters of resignation of certain directors, namely [names] [and the secretary of the Company], with [redacted],

9.2.6 [the resignation of [redacted]];

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9.2.7 a list of all user names and [redacted].

9.2.8 the certificate of incorporation of the Company;

9.2.9 written confirmation by [redacted];

9.2.10 [employment contracts / service agreements], signed in [redacted], [redacted] [[redacted]] [redacted];

9.2.11 all records relating to the employment of any person [redacted] [6] [redacted];

9.2.12 the minutes of meetings [redacted], [redacted]:

[Buyer nominee name] [redacted] [[redacted]] [redacted];

transfer forms [redacted];

the resignations of [name] [redacted] [[redacted]] [redacted] [[redacted]] [redacted].

9.3. Following completion of this Sale, the Buyer shall obtain [redacted].

9.4. The Sellers undertake that they will:

9.4.1 immediately repay to the Company any [redacted];

9.4.2 use his best endeavours to do [redacted].

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10. Warranties applicability and limitation

10.1. None of the [redacted].

10.2. Each of the Sellers confirms that when any Warranty refers to [redacted], [redacted], [redacted].

10.3. Each of the [redacted].

10.4. Nothing done or not done by [redacted].

10.5. The Buyer may make any agreement with one or more [redacted], [redacted].

10.6. The Buyer undertakes to use its best endeavours to conduct the businesses [redacted].

10.7. If and only if any Warranty cannot be specifically referable to [redacted], [redacted].

10.8. Each Seller waives any claim he might have against [redacted].

11. Warranties by Sellers

11.1. The Sellers (except the Trustees) jointly and severally warrant to the [redacted] [[redacted]]:

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11.1.1 the Sellers are entitled to transfer the Shares to [redacted];

11.1.2 after completion of this [redacted], [redacted];

11.1.3 except as disclosed in the Disclosure Letter, all of the [redacted] 3 [redacted], [redacted], [redacted], [redacted];

11.1.4 the contents [redacted];

11.1.5 unless otherwise specified, [redacted];

11.1.6 [Each corporate Seller [redacted]];

11.1.7 the Shares constitute the whole [redacted] [[redacted]] [redacted];

11.1.8 there is [redacted].

11.2. The Warranties in this agreement are not [redacted].

OR

11.3. The Warranties in this agreement are not limited in monetary value, but no claim [redacted], [redacted] [[redacted]] [redacted]. [redacted].

12. Trustee Warranties

Each of the Trustees warrants:

12.1. that he has legal title [redacted];

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12.2. that he has [redacted] ;

12.3. that he has no knowledge of any circumstance unknown [redacted] , [redacted] , [redacted] , [redacted] .

13. Restrictive agreement

13.1. So that the Buyer has the full benefit [redacted] , [redacted] :

13.1.1 for [3] years after completion of the Sale, either alone or jointly with or [redacted] , [redacted] , [redacted] .

13.1.2 at any time after completion of the Sale, disclose to any [redacted] , [redacted] , [redacted] , [redacted] ;

13.1.3 for [3] years after completion of the Sale, either on his own account or for any [redacted] , [redacted] , [redacted] [3] [redacted] , [redacted] , [redacted] .

13.2. Each of the Sellers now agrees that [redacted] .

13.3. Following completion of [redacted] , [redacted] :

13.3.1 hold himself [redacted] ;

13.3.2 register nor purchase nor use any name similar to any [redacted]

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[redacted].

14. Sellers' protection

14.1. Any claim against any Seller, in relation to the [redacted], [redacted].

14.2. No single Seller can be liable for any Warranty claim unless his [redacted], [redacted], [redacted] €[5 , 000].

14.3. In any event, the [redacted] €[100 , 000].

14.4. The Buyer may not claim more [redacted], [redacted].

15. The Guarantee

15.1. [Each of] [redacted]:

15.1.1 that every statement, [redacted];

15.1.2 that he will procure [redacted];

15.1.3 that he will indemnify the Buyer against all [redacted], [redacted];

15.2. [Each of] The Guarantor accepts that compliance by the [redacted], [redacted].

15.3. [Each of] The Guarantor accepts that the Buyer is [redacted]

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[redacted].

15.4. This guarantee is limited to:

15.4.1 the sum of [sum] in total;

15.4.2 claims notified to the [redacted] [[redacted]] [redacted].

16. Publicity / Announcements

16.1. No public or press announcement shall be made [redacted], [redacted].

OR

16.2. No party shall:

16.2.1 make any public a announcement; or

16.2.2 disclose any information; or

16.2.3 allow expressly or by default any other person [redacted].

16.3. Except, that no party shall be prohibited from making [redacted].

16.4. The parties agree to the issue of a [redacted] 1 [redacted] 3 , [redacted].

16.5. [Each/every] party [redacted].

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17. Miscellaneous matters

17.1. No amendment or variation to this agreement [redacted], [redacted].

17.2. The parties acknowledge and agree that this [redacted].

17.3. Unless otherwise stated in this agreement, all expenses in connection [redacted], [redacted].

17.4. So far as any time, [redacted], [redacted].

17.5. If any term or provision of this agreement is at any time held by any jurisdiction to be void, invalid or unenforceable, then it shall be treated [redacted], [redacted]. [redacted], [redacted].

17.6. Any obligation in this agreement [redacted].

17.7. If any of the Shares shall at any time be sold or transferred, the benefit [redacted].

OR

17.8. This agreement shall be binding upon each party's successors, assigns and [redacted] ([redacted]) [redacted].

17.9. No failure or delay by any party to exercise any right, [redacted]

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[redacted].

17.10. The parties agree that [redacted].

17.11. Any communication to be served on either of the parties [redacted] - [redacted].

It shall be deemed to have been delivered:

if delivered [redacted]: [redacted];

if sent by post [redacted]: [redacted] 72 [redacted];

If sent by e-mail to the address from which the receiving party has last sent e-mail: [redacted] 24 [redacted] - [redacted]. [[redacted] - [redacted]. [redacted], [redacted]].

17.12. In the event of a dispute between the parties to this agreement, [redacted].

17.13. So far as the law permits, [redacted], [redacted].

17.14. In the event of any conflict between any term of this agreement and the [redacted], [redacted].

17.15. This agreement may be executed in multiple counterparts each [redacted].

17.16. The validity, construction and performance of this agreement shall [redacted]

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■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■ ■■■■■■■■■■■■■■■■■■■■■■.

Signed by [personal name] on behalf of [named ■■■■]■■■■■■■■/■■■■■ ■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■[■■■ ■■■■■■■■■■■■■■■■■■■■■■■■■.

Signed by [personal name] on behalf of [named ■■■■]■■■■■■■■/■■■■■ ■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■[■■■ ■■■■■]■■■■■■■■■■■■■■■■■■■■.

Signed by [personal name] on behalf of [named ■■■■]■■■■■■■■/■■■■■ ■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■[■■■ ■■■■■]■■■■■■■■■■■■■■■■■■■■.

OR

Signed by [Seller name in full]

AND

Signed by [■■■■/■■■■■■■■■■■■■■■■]

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Schedule 1: Part 1 Shareholdings

[Here list all sellers, names, addresses [redacted] *,* [redacted] *].*

Name	**Address**	**Number of Shares**	**Signature**

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Schedule 1: Part 2 Details of the Company

1. The Company

Company number:[■ ■ ■ ■] ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ :[■ ■ ■ ■]

Share capital:

authorised € [■ ■ ■ ■] ■ ■ ■ ■ €[■ ■ ■ ■]

Registered office:[address]

Directors: [list all names in full]

Secretary:[name in full]

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Schedule 1: Part 3 Press release

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Schedule 2: Part 1 Properties

[Please [redacted] *]*

- Freehold Properties
- Leasehold Properties
- Any other particulars

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Schedule 2: Part 2 Assets

[Please list ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ , ■]

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Schedule 3: The Warranties

General

1. All of the information and [redacted].

2. All facts and data which could [redacted], [redacted].

3. No information has been held back [redacted], [redacted], [redacted].

4. No governmental organisation [redacted].

5. [redacted].

6. [redacted], [redacted], [redacted], [redacted].

7. [redacted].

8. [redacted], [redacted].

9. [redacted].

10. [redacted].

No damaging effect of this agreement

11. [redacted], [redacted] - [redacted], [redacted], [redacted].

12. No term of this agreement conflicts with:

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12.1. [redacted].

12.2. the constitution of the Company.

13. [redacted], [redacted].

Company structure and operation

14. [redacted].

15. [redacted], [redacted], [redacted], [redacted], [[redacted].]

16. [redacted], [redacted], [redacted] ([redacted]) [redacted]. [redacted] [5]% [redacted] ([redacted]).

17. [redacted].

18. [redacted]:

19.1 all documents of title relating to its Assets;

19.2 [redacted];

19.3 [redacted].

19. [redacted].

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20. [redacted].

21. [redacted] [redacted] / [redacted].

22. [redacted], [redacted], [redacted], [redacted], [redacted].

23. [redacted], [redacted].

24. [redacted], [redacted].

Accounts

25. [redacted] [redacted] [redacted].

26. [redacted] [redacted].

27. [redacted].

28. The Accounts:

    28.1. [redacted].

    28.2. [redacted] 2014, [redacted].

    28.3. [redacted].

    28.4. [redacted], [redacted].

29. [redacted]:

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its purchase price;

its production cost;

its net realisable value.

30. [redacted].

31. Since the Last Year End:

31.1. [redacted].

31.2. [redacted], [redacted].

31.3. [redacted], [redacted].

32. [redacted].

Cash flow

33. [redacted]:

33.1. [redacted].

33.2. [redacted], [redacted].

33.3. [redacted].

34. [redacted].

35. [redacted] [redacted] [redacted].

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Taxation

36. [redacted], [redacted], [redacted].

37. [redacted].

38. [redacted], [redacted].

39. [redacted], [redacted].

40. [redacted], [redacted].

41. [redacted] [redacted] [redacted].

42. [redacted].

43. [redacted].

44. [redacted] [redacted/ [redacted]].

Guarantees and borrowing

45. The Disclosure Letter discloses:

    45.1. [redacted];

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45.2. the terms of every loan;

45.3. [redacted] ;

45.4. [redacted] .

46. [redacted] .

47. [redacted] , [redacted] , [redacted] .

48. [redacted] .

Assets

49. [redacted] :

49.1. are in its possession and control.

49.2. [redacted] , [redacted] .

49.3. [redacted] .

49.4. [redacted] .

49.5. [redacted] .

Trading and contracts

50. [redacted] , [redacted] - [redacted] - [redacted] , [redacted] / [redacted] , [redacted] .

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51. ■■■

56. [redacted] [[redacted] , [redacted]].

57. [redacted] .

58. [redacted] [[redacted]], [redacted] .

59. [redacted] [25] [redacted] [25] [redacted] .

60. [redacted] , [redacted] .

61. [redacted] .

Exceptional regulations

62. The Company is not:

62.1. [redacted] / [redacted] .

62.2. a producer of replacement components for such vehicles.

62.3. [redacted] / [redacted] ([redacted]).

63. [redacted] , [redacted] , [redacted] - [redacted] , [redacted] ([redacted]) [redacted] 2016 .

64. [redacted] (94 / 62 / [redacted]) ([redacted])

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65. [redacted], [redacted] 3. 2 [redacted] 3 [redacted] ([redacted]) [redacted] 1272 / 2008 [redacted], [redacted].

Properties - all

66. [redacted], [redacted].

67. [redacted].

68. [redacted] "[redacted]", "[redacted]" [redacted] "[redacted]".

69. [redacted].

70. [redacted] 2 [redacted] 1 [redacted], [redacted].

71. [redacted].

72. [redacted]:

    72.1. [redacted] 21 [redacted].

    72.2. [redacted].

    72.3. there are no rent reviews in progress.

73. [redacted], [redacted] - [redacted].

74. [redacted].

75. [redacted], [redacted].

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76. [redacted].

77. [redacted].

78. [redacted].

79. [redacted]:

79.1. water;

79.2. drainage;

79.3. electricity;

79.4. gas;

79.5. telecommunications.

80. [redacted]. [redacted].

Properties let by the Company

[redacted].

81. [redacted], [redacted] 2 [redacted] 1 .

82. [redacted].

83. [redacted]:

83.1. the name and address of the tenant.

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83.2. the name and address of any guarantor.

83.3. the address of the Property.

83.4. [redacted].

83.5. the rent.

83.6. [redacted]

83.7. [redacted].

83.8. [redacted], [redacted], [redacted].

83.9. [redacted].

83.10. any unusual provisions.

84. [redacted].

Employment

85. [redacted], [redacted]-[redacted].

86. [redacted].

87. [redacted]-[redacted].

88. [redacted], [redacted], [redacted].

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89. [redacted] €[[redacted]] [redacted].

90. [redacted].

Pensions

91. [redacted], [redacted], [redacted], [redacted]:

    91.1. copies of the trust deeds;

    91.2. the latest actuarial report;

    91.3. [redacted], [redacted].

92. [redacted] ([redacted]) [redacted].

Insurance

93. [redacted].

94. No policy contains any special term or restriction.

95. [redacted], [redacted], [redacted].

96. [redacted], [redacted] - [redacted].

97. [redacted], [redacted].

Personal data protection

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98. [redacted] 2018 .

99. [redacted] , [redacted] .

Intellectual Property

100. [redacted] .

101. [redacted] .

102. [redacted] .

103. [redacted] .

104. [redacted] .

105. [redacted] .

106. [redacted] ([redacted]) [redacted] , [redacted] .

107. [redacted] - [redacted] .

Information technology ("IT")

108. [redacted] :

108.1. the name;

108.2. name and contact information of registrant;

108.3. tag holder name, land address and website;

108.4. date to which the name is registered.

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109. [redacted].

110. [redacted].

111. [redacted], [redacted].

112. [redacted] [[redacted]].

113. [redacted], [redacted].

114. [redacted], [redacted]:

114.1. [redacted];

114.2. technical, customer and client support services;

114.3. [redacted];

114.4. an email service provider.

115. [redacted]. [redacted] 12 [redacted].

116. [redacted], [redacted].

117. [redacted], [redacted]:

117.1. [redacted];

117.2. what password he uses;

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117.3. [redacted];

117.4. [redacted].

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Explanatory notes:

Company purchase agreement: cash and shares, part deferred

General matters

1. The parties

This agreement has been drawn assuming either a company seller or two or more shareholders selling a company to one ■ ■ ■ ■ ■ ■ ■ ■ . ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ .

2. Complete when agreement dated or later?

This agreement has been drawn for completion immediately "as signed". Signing completes the deal. The parties must then immediately do whatever else they have promised in order to complete the process. It is perfectly possible to complete at a later date than the agreement is signed. However, problems then arise with control of the company in the meantime and the possibility that anything may change between contract and completion. The Net Lawman recommended route is therefore ■ - ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■

"Net Profit" must be considered very carefully, as it is the base line for calculation of the retention and shortfall. The important point is to make the calculation the same for pre [redacted] .

If the same accountants conduct the audits, that should present no problem. If the buyer is likely to appoint new accountants, he would be wise to obtain a written statement from the sellers' accountants setting out the method of calculation, so that he can instruct new accountants to use the same methodology. It may also be necessary further to [redacted] " [redacted] ", [redacted] .

2. Interpretation

A number of provisions, each of which has application at one of more points later in the document. We suggest you do not [redacted] .

3. Entire agreement

This paragraph prevents a party from later saying he was relying on some other document or information or what was said. If other documents are to be relied on (if any), let them be listed [redacted] , [redacted] .

4. Calculation of the Purchase Price

The sellers are to receive a mixture of cash now, cash if future forecasts are met, and shares in the buyer company. You should take advice from your accountant as to how to treat these items for [redacted] .

The words "if it becomes due" should be left in place to assist the seller's discussions with the Revenue as to [redacted] .

5. Buyer New Shares: Buyer's obligations

These include the terms related to new shares in the buyer company. Here you just mention the basic terms. Of course you need a detailed shareholder agreement to protect ongoing interest. Without one, the buyer can [redacted] , [redacted] .

6. The Additional Price: calculation and payment

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The agreement provides for an addition sum to be paid to the sellers if profits exceed a pre-determined sum. We have also included terms to cater ■ ■ ■

- Of course, the sellers will already have satisfied themselves that the beneficiary of a guarantee (like a bank) ■ .

10. Warranties applicability and limitation

Do not edit without very good reason and full understanding of the effect. If you have not previously used warranties, we urge you to read the complete explanation in plain English at http://www.netlawman.co.uk/info/selling-your-business-part1.php

11. Warranties by Sellers

"Joint and several liability" means that all the sellers are jointly liable. No one of them can avoid liability to the buyer by saying he was personally not to be blamed. This means that the buyer can (and would) claim against the wealthier sellers if ■ , ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■

■ ■ ■

This may not be important to ■ ■ ■ ■ . ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ .

17. 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 ■ ■ ■ ■ . ■ , ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■

Explanation of warranties

Unlike any sale agreement, a company sale agreement is different. The main proposition is [redacted] - [redacted] .

The agreement is usually drawn by the buyer. That is fair because the buyer knows nothing about the company and the seller knows everything (we hope)! So the agreement first covers [redacted] - [redacted] , [redacted] , [redacted] , [redacted] . [redacted] “ [redacted] ”.

These are just assurances or guarantees from the seller as to the condition and state of the company and in particular, any existing liabilities, at the time of sale. No matter how thorough [redacted] , [redacted] , [redacted] , [redacted] .

How to use warranties?

If you are seller

The warranties are not so much the sting in the tail as half the dog. Many solicitors and entrepreneurs will deliberately insist on a seller giving [redacted] , [redacted] , [redacted] .

As a seller, you have a number of [redacted] :

- when you produce the draft agreement, remove the most “difficult” warranties before you send it to the buyer. [redacted] .
- provide clear and open disclosure to [redacted] .
- after considering the breadth of each warranty, you could edit those that [redacted] ; [redacted]
- Even where you “answer” the warranty in some way, there is still a strong case for qualifying absolute warranties, [redacted] “ [redacted]

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[redacted] ” [redacted] “ [redacted] ”.

Being the seller it is essentially important to provide full and [redacted] .

If you are the buyer

The weight of advantage is very firmly with the seller. He has the knowledge. You have none. [redacted] , [redacted] . [redacted] .

As a buyer you need warranties:

- to provide yourself legal protection regarding the [redacted] .
- The general rule of "buyer beware" always applies which means that [redacted] .
- In deciding to purchase share capital of the company, you have made a number of assumptions but [redacted] , [redacted] , [redacted] . [redacted] .
- To get the right to claim [redacted] . [redacted] .

Either you are the seller or buyer, if you want a fair and satisfactory outcome, use warranties.

Warranties: drafting notes continued

It is good practice to delete irrelevant warranties, but by all [redacted] “ [redacted] ” [redacted] . [redacted] “ [redacted] ” [redacted] . [redacted] .

General

These are very basic and general requirements. They are also broad, covering [redacted] . [redacted] , [redacted]

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[redacted], [redacted]. [redacted], [redacted].

No damaging effect of this agreement

The buyer needs to [redacted].

Company structure and operation

With reference to licences and consents: in any business which has been operating for more than a few years, [redacted]. [redacted], [redacted], [redacted]. [redacted], [redacted].

Accounts, Cash flow and Taxation

The buyer should take advice [redacted]. [redacted].

The basis of valuation of the company is likely to have been the last audited annual accounts, [redacted]. [redacted]. [redacted]. [redacted], [redacted], [redacted].

Guarantees and borrowing

A list of creditors should be readily [redacted]. [redacted].

Assets

Even if all accounts information is absolutely correct, [redacted]. [redacted], [redacted]. [redacted].

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The most important answers sought here are as [redacted] !

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 [redacted] / [redacted] / [redacted] ([redacted]) [redacted] .

The buyer's requirement for details of customers and suppliers will be [redacted] 1 , 000 [redacted] .

The most common reason for litigation about contracts arises because someone, [redacted] .

Exceptional regulations

Leave or delete, [redacted] .

Properties - all

Real property is [redacted] .

Most of these items cover the facts that would be [redacted] .

Properties let by the Company

If none, delete.

Employment

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We have no comment. Set the warranties [redacted] . [redacted] [redacted] “ [redacted] ”

Pensions

We have no comment.

Insurance

We have no comment.

Personal data protection

We suggest leave it as is.

Intellectual Property

All companies acquire some intellectual property. Even a quite small [redacted] . [redacted] . [redacted] .

A buyer should consider what IP this company might need [redacted] . [redacted] - [redacted] .

Information technology (“IT”)

These are of course an item of intellectual property. We have placed them under a separate heading to [redacted] . [redacted] - [redacted] , [redacted] . [redacted] . [redacted] " [redacted] " [redacted] .

End of all notes

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