

IN-COMbsl10

Business sale agreement: sports coach or personal trainer

Date: [date]

Between:

The Buyer is: [name] of [address]

The Seller is: [name] of [address]

The Guarantor is: [name] of [address]

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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]

The First Guarantor is: [name]
of [private address]

The Second Guarantor is: [name]
of [private address]

OR

Corporate version (use for an LLP too)

The Buyer is: ABC Pvt Limited, a company incorporated in the Republic of India [under corporate identity number [number]].
[].

The Seller is: DEF Pvt Limited, a company incorporated in the Republic of India [under corporate identity number [number]].
[].

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 an individual, but

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
- "Last Accounts Date" means the date to which the Accounts have
- "Assets" means all tangible and intangible assets whatever, owned by the
- "Business" means the [type of business] business carried on by the Seller until today under the name and style []
- "Confidential Information" means all information about the Business, including
- information about employees,
- data or information relating to suppliers, product plans,
- information about the Intellectual Property,

	;
	information created or arising from this agreement;
	information owned by a third party
	information, comment
	data or information relating to pre-clinical and clinical trial
	information about
"Contracts"	means current contracts of the
"Creditors"	means trade creditors and accrued
"Disclosures"	means the
"Disclosure Letter"	means the disclosure letter of the
"Domain Name"	means any
	: [name1].com [name2].com [name3].co.in
"Employee/Employees"	means a person who

"Excluded Assets"	means the Assets listed in Schedule 3
"Goodwill"	means the goodwill in relation to the ,
"Intellectual Property"	means intellectual property of every sort, whether or not registered or registrable in any country, including intellectual property of all kinds coming into existence after , , , , , , , , - , , ,
"ISP"	means the Internet service provider;
"Know-how"	means scientific or technical information, and
"Lease"	means the lease or leases , [,]
"Payment Service Provider"	means the banking intermediary who provides
"Price"	means the
"Products / Services"	means the products

"Property/Properties"	means the freehold or leasehold properties, 1 .
"Stocks"	means stocks of Products, raw materials, work in progress and finished goods, and goods for
"Third Party Software"	means software owned by some
"Warranty/Warranties"	means the warranties and undertakings of the [11] [2]
"Website"	means www.[URL] and www.[URL] and

2. Interpretation

This agreement

2.1. A reference to one

2.2. In connection with any benefit given by ,

2.3. A reference to a person includes reference to that person's successors, legal representatives,

2.4. A reference to the knowledge, information, belief or awareness

2.5. A reference to a paragraph or schedule is to

2.6. The headings to the paragraphs and schedules ()

2.7. Any agreement by any party not to do or

2.8. A reference to an act or

2.9. All money sums mentioned in this

2.10. 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

3. Entire agreement

3.1. Each party acknowledges that this agreement and the Disclosure Letter

3.2. The Seller warrants and undertakes that he is not

4. Agreement for sale

4.1. The Buyer admits

4.2. This agreement, Warranties,

4.3. Subject to the terms of this agreement,

4.3.1 the Business as a going concern;

4.3.2 the Assets;

4.3.3 the Stocks;

4.3.4 the Intellectual Property rights;

4.3.5 the Domain Name;

4.3.6 the Website;

4.3.7 All other Assets owned by

4.4. Completion shall take place today,

5. Transfer of contracts

The Seller undertakes that for a period of [\[three\]](#) years, 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 shall

:

Goodwill	Rs []
Assets	Rs []
Intellectual Property rights	Rs[]
Contracts and all other property	Nil
The Stocks	To be ascertained
Total Price [excluding Stock]	Rs []

6.2. The Price shall be paid as follows:

6.2.1 [], /

6.2.2 ,

6.3.

, / []

6.4.

:

[list property on which VAT payable]

OR

6.5.

7. Items to be delivered at completion

7.1.

7.2.

7.3.

7.4.

7.5.

7.6. marketing material of every sort in any medium.

8. Completion

8.1.

8.2.

[14]

8.3.

[] ,

,

8.4.

, - ,

8.5.

8.6.

,

9. Creditors and liabilities

9.1.

,

9.2.

9.3.

10. Value Added Tax (VAT)

10.1.

10.2.

10.3.

10.4.

[6]

11. Warranties by the Seller

11.1. The Seller warrants to the Buyer that:

11.1.1 [2]

11.1.2 the Disclosures are true, accurate and comprehensive;

11.1.3

11.2.

11.3.

OR

11.4.

12. Future activities

12.1.

[3]

12.2.

[

]

,

,

[

]

,

12.3.

[

]

,

,

[

]

12.4.

;

12.5.

13. Confidentiality

13.1. The Seller now undertakes that he will:

13.1.1 , ;

13.1.2 ;

13.2. []

14. Publicity / Announcements

14.1. .

14.2. ,

15. Miscellaneous matters

15.1. ,

15.2. ,

15.3. , ,

15.4.

15.5.

15.6.

15.7.

15.8.

It shall be deemed to have been delivered:

;

72 ;

- : 24

.[

.)

].

(

15.9.

15.10.

Signed by [Seller name in full]

AND

Signed by [Buyer name in full]

Schedule 1: Assets

[list Assets]

Schedule 2: Warranties

[
,
.]

Accounts

1. [] .
2. The Accounts:
 - 2.1. ;
 - 2.2. , ;
 - 2.3. 2013 , ;
3. :
its purchase price;
its production cost;
its net realisable value.
4. .
5. ;
 - 5.1. ;
 - 5.2. .

5.3.

6.

Intellectual Property

7.

8.

9.

Information technology (“IT”)

10.

10.1. the name;

10.2. name and contact information of registrant;

10.3. date to which the name is registered.

11.

12.

12.1.

12.2. technical, customer and client support services;

12.3.

;

12.4. an email service provider.

13.

.

12

.

14.

,

End of Warranties

Schedule 3: Press release

Explanatory notes:

Business sale agreement: sports coach or personal trainer

General notes

This is a long document which requires many changes. We suggest you save a perfect copy in case

1. Who is the named seller?

In naming a party at the top of the document, use the personal version for any human person or people who are together a partnership,

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 and disclosure letter

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. Disclosure letter to be worked up

The agreement proposes that the disclosure letter is handed over at completion. It is - in the final accepted version. However, the buyer should obtain a draft disclosure letter as soon as ever possible. It will contain many matters for the buyer's further investigation. It is likely that

5. Initial extra pages

In a document as complicated as this, it is good practice for all parties to initial each page

Matters relating to numbered paragraphs in the document

(Some points are covered in the Warranties)

1. Definitions

Please read the general notes sent along with .

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. 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.

3. 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 ,

4. Agreement for sale

There is an overlap in this list: use the descriptions that are most

5. 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 ,

6. The Price

The buyer may wish to apportion the purchase price among the assets first, for tax purposes; and second, so that if by chance some item is not available on completion, there is some yardstick for a claim. In most cases however, the basis for

For various tax purposes it may be important to specify

:

Goodwill

Leasehold property

Freehold property

Assets

Intellectual Property

Stock for sale or manufacture

You should consult an accountant as to the most favourable apportionments, although the

7. 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 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 buyer should open his own separate account with

8. 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

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. Value Added Tax (VAT)

The transfer of business as going

11. Warranties by the Seller

See later for full

This paragraph - confirmation of the warranties - is critical to

This paragraph provides for the warranties to be given by both the seller and the guarantor. In addition, in another paragraph, the guarantor guarantees the performance of the contract by the seller. The buyer's position against

The guarantor may have a lesser interest than the legal seller, for example as a non-executive director of the seller, or as a relative of the seller if an individual. In that case,

The extent of the guarantee can also be

Generally, it is good practice to delete irrelevant warranties, but by all means leave in "tough"

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

13. Confidentiality

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. The buyer may want to publicise the deal

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 law as if we had written them

Notes on the schedules

Schedule 1

Schedule 2 - Assets

List Assets

Schedule 2 - Warranties:

Note: matters relating to warranties

To use this document you have to understand how warranties work.

!

Warranties - the inside-out promises

I will now address the task itself and tell you how to make it happen. The first matter to consider

The agreement is drawn by the buyer. That is fair because the buyer knows nothing about the business and the seller knows everything (we hope)! So the

Warranties work like this: I am a

60

The letter of disclosure is the other “half” of the process. In my letter of disclosure, I refer in turn to each of the warranties you

In that way, before he can sue you, the buyer has to

“Where any warranty refers to the knowledge, information

Suppose the seller warrants:

“Neither the seller nor any of its shareholders

,

”

The reply to this

Now, finally, let us suppose the warranty had not been in the draft agreement at all. This is what would have happened:

You may find aspects of my illustration to be immoral. That may

Warranties - seller’s tactics

The “task” of the seller is essentially to provide full and truthful information and to avoid

As a seller,

- You be the one to
“ ”
- When you receive the draft
- in your draft disclosure letter, which

- Consider the breadth of each warranty.
- Even where you “answer” the warranty in some
- At all costs avoid the easy way out of leaving the warranties

Warranties - buyer’s response

If you want a fair and satisfactory outcome, use warranties.

However, if your warranties are all “absolute” in matters where it is unreasonable to expect the seller to

Set out the warranties according to the transaction. Do not include warranties which

If the seller is represented by a lawyer, you will have to decide whether this creates an unlevel playing field.

Some lawyers acting for a buyer will see the provision of warranties as an opportunity to go back to

Warranties: drafting notes continued

It is good practice to delete irrelevant warranties,

“ ” “ ”

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

!

Intellectual Property

All business acquires some intellectual property. Even quite small

Information technology (“IT”)

These are of course an item of intellectual property. We have placed them under a separate heading to

“ ”

End of notes