Business sale agreement: professional service provider

Date: [date]

Between:

The Buyer is: [name] = = = [= = =]

The Seller is: $[name] \blacksquare \blacksquare \blacksquare [\blacksquare \blacksquare \blacksquare]$

The Guarantor is: $[name] \blacksquare \blacksquare \blacksquare [\blacksquare \blacksquare \blacksquare \blacksquare]$

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. Transfer of Employees
- 11. Debtors
- 12. Creditors and liabilities
- 13. Goods and Services Tax (GST)
- 14. Warranties by the Seller
- 15. Limitation of Seller's liability
- 16. Future activities
- 17. The Guarantee
- 18. Confidentiality
- 19. Publicity / Announcements
- 20. Damages not adequate
- 21. Miscellaneous matters

Schedule 1 Leasehold Property

Schedule 2 Assets

Schedule 3 Excluded Assets

Schedule 4 Warranties

General Accounts Assets

Trading and contracts

Employees

Statutory restrictions
Litigation and regulation

Freehold and leasehold Properties

Intellectual Property

Information technology ("IT")

Schedule 5 Press release

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 LP too)

The Buyer is: ABC Limited, a company incorporated in New Zealand

under company number [number] and \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare

The Seller is: DEF Limited, a company incorporated in New Zealand

under company number [number] and \blacksquare

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	assı	umed	that	the	seller	is ar	ı indi	vidua	l, 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 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 any information which may give a commercially competitive advantage to
	===:
	information about employees, their performance and ■■■■■■■■■■■,
	data or information relating to suppliers, product plans, marketing strategies, finance, performance, operations, customer • • • • ;
	information about the Intellectual Property, the know-how and all
	information created or arising from this

	agreement;
	information owned by a third party and in respect of which the Seller
	information, comment or implication published on
	data or information relating to pre-clinical and clinical trial results, processes, formulae, procedures, designs, drawings, apparatus, ••••••••••••••••••••••••••••••••••••
"Contracts"	means current contracts of the Seller in relation to the Business,
"Creditors"	means trade creditors and accrued charges in connection with the Business • • • • • • • • • • • • • • • • • •
"Disclosure Letter"	means the disclosure letter of the same date as this agreement from the Seller to the Buyer relating to the Warranties. A reference to "Disclosure" shall be a reference to all or
"Domain Name"	means any or all of the ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■
	[name1].com
	[name2].com
	[name3].co.nz
"Employee/Employees"	means a person who is employed by the Seller for ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ .
"Excluded Assets"	means the Assets listed in Schedule 3 which are owned by the Seller but
"Goodwill"	means the goodwill in relation to the Business,

	being goodwill of the Seller until
"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 today, and including patents, trade marks, unregistered marks, designs, copyrights, software, domain names, discoveries, know-how, creations
"ISP"	means the Internet service provider; that is any provider of any service in
"Last Accounts Date"	means the date to which the Accounts have
"Lease"	means the lease or leases under which the Property, [or some • • • • • • • • • • • • • • • • • • •
"Payment Service Provider"	means the banking intermediary who provides the service of transferring money from the Website ••••••••••••••••••••••••••••••••••••
"Price"	means the price to be paid \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare
"Services"	means the services sold by the •••••••••••••••••••••••••••••••••••
"Property/Properties"	means the freehold or leasehold properties, or both, owned or used by •••••••••••••••••••••••••••••••••••
"Third Party Software"	means software owned by some • • • • • • • • • • • • • • • • • • •
"Warranty/Warranties"	means the warranties and undertakings of

"Web	site" means www.[URL] and www.[URL] and means www							
Cor	porate seller provisions							
If the Seller is a \blacksquare								
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 a	agreement = = = = = = = = = = = = = = = = = = .							
3.1.	A reference to one							
3.2.	In connection with any benefit given by ••••, ••••, •••••.							
3.3.	A reference to a person includes reference to that person's successors, legal representatives,							

2.

3.

3.4.	A reference to the knowledge, information, belief or awareness
	, ,
3.5.	A reference to a paragraph or schedule is to •••••••••••••••••••••••••••••••••••
3.6.	The headings to the paragraphs and schedules (• • • • • •) • •
3.7.	Any agreement by any party not to do or
3.8.	A reference to an act or
3.9.	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
	•••••••
Enti	re agreement
4.1.	Each party acknowledges that this agreement and the Disclosure Letter
4.2.	So far as any relevant law permits, conditions,

4.

	4.3.		of the parties warrant that he												
	4.4.		eller warrants and undertakes that he is not												
5.	Agreement for Sale														
	5.1.	Subjec	ct to the terms of this agreement, ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■												
		5.1.1	the Business as a going concern;												
		5.1.2	the leasehold Property;												
		5.1.3	the Assets;												
		5.1.4	the Intellectual Property rights;												
		5.1.5	the Domain Name(s);												
		5.1.6	the Website;												
		5.1.7	the benefit of the Contracts;												
		5.1.8	all other Assets owned by												
	5.2.	etion shall take place today, ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■													
	5.3.		ssignment of the leasehold • • • • • • • • • 1 .												
6.	Tra	nsfer	of Contracts												
	The S	Seller un	dertakes that for a period of [three years], he will do his utmost												

	,		
6.1.	enter into any novation agreement.		
6.2.	provide information about • • • • • • • • • • • • • • • • • • •	•••	•••••
6.3.	confirm to any person or governmental authority su	ch deta	ails
6.4.	immediately inform the •••••••••••••••••••••••••••••••••••	• • • •	•••••
The	Price		
7.1.	The Price for the Business shall		•••••
	:	•••	• • • • • • • • • • • • • • • • • • • •
	Goodwill	\$[1
	Leasehold Properties	\$[1
	Assets	\$[1
	Contracts and all other property	Nil	
	Total Price	\$[1
7.2.	Insofar as this agreement provides for the transfer t	o the E	Buyer of ■ ■ ■
7.3.		-/	•••••]
	••••		
7.4.	•	-	
	6.1.6.2.6.3.6.4.The7.1.7.2.7.3.	6.2. provide information about	6.1. enter into any novation agreement. 6.2. provide information about I

			\$]		1			1 1					1			ı

8. Items to be delivered at completion

	= = = = = = = = = = = = = = = = = = =
8.1.	whatever the
8.2.	all books = = = = = , = = = = = = ;
8.3.	computer programmes = = = = = = = = = = = = = = = = = = =
8.4.	all data in electronic form,
8.5.	all information and records relating to clients and suppliers, including a list of all the [• • • •] • • • • • • • • • • • • • •
8.6.	complete records relating to Employees, •••••••••••••••••••••••••••••••••••
8.7.	[if the seller is a limited company] signed and certified copy of the minutes of a meeting of
	[:
8.8.	assignment of the leasehold Property [unless • • • • • • • • • • • •
8.9.	transfers of the ••••;
8.10.	forms of authority addressed to

8.11.	all technical and										
8.12.	marketing material of every sort in any medium;										
8.13.	policies of insurance, continuing;										
8.14.	all other • • • • • • • • • • • • • • • • • • •										
Completion											
9.1.	As soon as the items listed above have passed into the possession ■ ■										
9.2.	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.										
9.3.	As soon as possible and in any event within [two days] from today, ■ ■										
9.4.	The Seller has a continuing obligation to do what is ■ ■ ■ , ■ ■ ■ ■										
U											
	••••										
9.5.	The Buyer shall not be obliged to •••••••••••••••••••••••••••••••••••										
9.6.	If any or all of the transactions set out in this paragraph do not ■ ■ ■ ■										

9.

10.	Trar	nsfer of Employees
	10.1.	The parties agree that the Employees
	10.2.	The Buyer agrees to indemnify the Seller against any
11.	Deb	tors
	11.1.	The Buyer shall use all reasonable effort to collect the debts on , , , , , , , , , , , , , , , , , ,
	11.2.	If it becomes apparent to the Buyer that recovery of any of the book debts is not likely to be possible within • • • • • • • • • • • • • • • • • • •
	11.3.	Where a debtor who has so failed to pay, is • • • • • • • • • • • • • • • • • •
	11.4.	Unless the debtor shows a contrary intention when making payment,
	11.5.	The Seller may inspect the books of the Buyer for

Creditors and liabilities

12.1. The Seller shall immediately discharge all the debts of the ■ ■ ■ ■ ■ ---------12.2. The Seller shall remain liable for all claims by third parties in respect of any Services supplied by the Seller or any act or omission of the ------12.3. After today, the Buyer must discharge the outstanding obligations and liabilities of the Seller under the Contracts,

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

12.4. The Seller agrees to indemnify and hold the

13. Goods and Services Tax (GST)

13.1. The parties acknowledge that the sale of the Business is a supply ■ ■ ■ **. 1985** .

13.2. The Seller shall immediately deliver to the Buyer

13.3. The Buyer shall for a period of not less than 7 years from ■ ■ ■ ■ ■ ■,................................. ------

14. Warranties by the Seller

14.1. The Seller warrants to the Buyer that:

		4444	41 10/
		14.1.1	the Warranties set ••••• [4] ••••••
		14.1.2	the Disclosures are true, accurate and comprehensive;
		14.1.3	where any Warranty refers to the knowledge, information ■ ■ ■
		14.1.4	where the subject matter of a Warranty may refer both to the ■
	14.2.	The Se	eller agrees to indemnify the Buyer against all costs claims and ■
15.	Limi	itation	of Seller's liability
	-		case of death or personal injury, the total liability of the Seller
			= = \$ [100 , 000]. = = = = = = = = = = = = = = = = = = =
		••••	,
16.	Futu	ure act	tivities
		•	e the
	10.1.		ence or continue any business or activity whatsoever ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■
		••••	

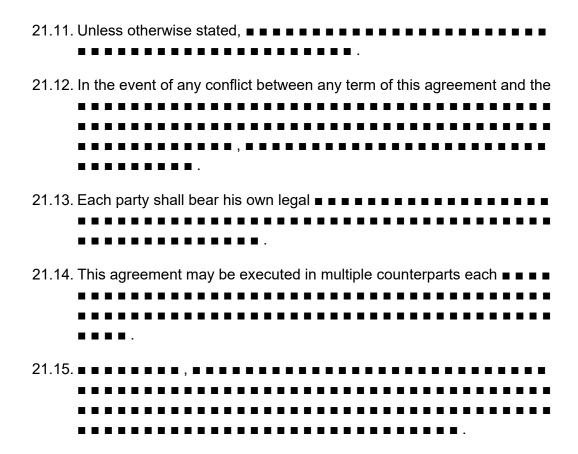
	16.2.	within [three years] of today, promote, make or sell any service which competes with any
	16.3.	within [three years] of today, employ or provide work
	16.4.	not use any name or mark similar to,
	16.5.	register or purchase nor use any Internet domain
17.	The	Guarantee
	17.1.	[Each of] • • • • • • • • • • • • • • • • • • •
		17.1.1 that every statement, ••••••••••••••••••••••••••••••••••••
		17.1.2 that he will procure •••••;
		17.1.3 that he will indemnify the Buyer against all •••••;
	17.2.	[Each of] The Guarantor accepts that compliance by the , , , , , , , , , , , , , , , , , , ,
	17.3.	[Each of] The Guarantor accepts that the Buyer is
		· ·

		17.4.1 the sum of [sum] in total;
		17.4.2 claims notified to ••••••[••••]•••••
18.	Con	fidentiality
10.		•
	18.1.	The Seller now undertakes that he will:
		18.1.1 except as provided in this • • • , • • • • • • • • • • • • • • •
		18.1.2 not use the Confidential • • • • • • • • • • • • • • • • • • •
	18.2.	This paragraph does not apply to disclosure to the extent required under the rules of any stock exchange or • • • • • • • • • • • • • • • •
		■■.
	18.3.	The obligations set out in this paragraph
	18.4.	The provisions of this paragraph shall continue • • • • • • • • • • • • • • • • • • •
19.	Pub	licity / Announcements
	19.1.	No public or press announcement shall be made
	OR	
	19.2.	No party shall:
		19.2.1 make any public announcement; or

17.4. This guarantee is limited to:

		19.2.2 disclose any information; or												
		19.2.3 allow expressly or by default any other person ■ ■ ■												
		except, that no party shall be prohibited from making \blacksquare \blacksquare \blacksquare												
			• • • • •											
	19.3.	Γhe parties agree to the issue of ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■												
20.	Dan	agos not adoquato												
20.		ages not adequate												
	Without prejudice to any other rights or remedies which a party may have, the parties now acknowledge and agree that damages would not be an adequate													
	remed	for = = = = = = = = = = = = = = = = = = =												
		,												
21.	Misa	ellaneous matters												
	21.1.	No amendment or variation to this agreement ■ ■ ■ ■ ■ ■ ■ ■ ■	 											
	21.2.	Γhe parties acknowledge and agree that this ■ ■ ■ ■ ■ ■ ■ ■												
			• • • • •											
	21.3	So far as any time, ■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■												
	21.5.													
	21.4.	f any term or provision of this agreement is at any time held by	y any											
		urisdiction to be void, invalid or unenforceable, then it shall be												
		,												

21.5.	The rights and obligations of the
21.6.	Any obligation in this agreement
21.7.	No failure or delay by any party to exercise any right,
21.8.	The parties agree that
21.9.	Any communication to be served on either party by
	It shall be deemed to have been delivered:
	if delivered • • • • • • : • • • • • • • • • • • •
	if sent by e-mail to the address from which the receiving party has last sent e-mail: within 24 hours
21.10	. In the event of a dispute between the parties to this agreement, ■ ■ ■ ■



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.

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

OR

Signed by [Seller name in full]
AND
Signed by [Buyer name in full]
AND
Signed by [Guarantor name in full]

	Schedule 1: Leasehold Property																				
					-																
[===																					, ∎
1.																					
2.			•••					-		• •		-	•		•			-	•	•	
3.	•.																				
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OR

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	9.4	• • •															
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	9.5	 															
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	9.6																
		 										-					
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		 	 ••	 	 			-			•					•	-

Signed by [personal name], duly authorised for the Seller
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

Schedule 2: Assets

[list assets]

Schedule 3: Excluded Assets

[list excluded assets]

Schedule 4: Warranties																											
_																											
. . , .									•		- 1		-			•			•		•		-				
Gene	ral																										
1.																						•	•	= 1		■	
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9.	
10.	
11.	The Accounts:
	11.1.
	11.2.
	11.3.
	11.4.
12.	:
	its purchase price;
	its net realisable value.
13.	
14.	
	14.1.
	14.2.
	14.3.

15.									••							_				•
Asset	III		 	• • •	• • •			••		■ .										
16.	All As	sets:																		
	16.1.	are t	ransf	ferre	d by	this	agre	eeme	ent a	ınd										
	16.2.												• •	•			•			••
	16.3.		• • •																-	
17.	•[•	• • •										■\$	[■		■]] =				• •
Tradi	ng and	l cont	tracts	s																
18.	•••									• •	••	• •	 						• •	•
19.																	· •		• •	•
20.	••••	[-													
21.	•••				_		-	_						• •		-		•	• •	•
22.	. 1						-						= 1	• •		[=	•		. =	•

23.	
	•••••••
24.	
25.	
26.	
Empl	oyees
27.	The Disclosure Letter contains for each Employee:
	27.1. an employment history;
	27.2. a curriculum vitae;
	27.3. terms of employment;
	27.4. non-contractual matters and informal arrangements.
28.	
29.	
30.	
31.	
32.	

33.	The Seller is involved in no employment dispute.
34.	
35.	
36.	
0.7	
37.	
	tory restrictions
38.	4000
39.	1986 .
00.	
40.	
Litiga	tion and regulation
41.	
42.	
	.,

43.	
Lease	ehold Properties
44.	[1].
45.	•••••
46.	None of the Properties is:
	46.1. ;
	46.2. situated in a conservation area;
	46.3.
	46.4. in an area liable to flooding.
47.	[1]
10	■.
48.	
49.	
50.	
51.	
52.	
53.	

54.		• • • • • • , • • •	• • • • •	••••	• • • •	• • • •	••••	•••	••••	••••	1
	54.1.										
	54.2.			••••			•••	••••			
55.											ı
	••••										
	55.1. v	vater;									
	55.2. d	drainage;									
	55.3. e	electricity;									
	55.4. g	gas;									
	55.5. t	elecommu	ınications								
56.							• • • •				
	■ .										
57.							• • • •		 		
58.	There a	ıre no rent	reviews i	n progr	ess.						
59.							, = = =	■,■■		■ ■ , ■	
					••••	•••	••••				
Intelle	otual D	vonovtv									
	ectual P										
60.										• • • •	
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61.			••••		 	•••	••••		• • • •		
	■ ■ .										
62.	••••				• • • •					• • • •	

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66.	I	•••		• •	••		• •			•		•		•		ı =		• =	= 1	••	•	-	•
Inforn	nation	techn	ology	y ("I	T")																		
67.	67.2. 67.3.		e and	• • •	• •		••		•	■ ■	` • •					•••		•••	: :	•	••		•
68.	•••	•••	•••		••		• •	• •	••			•	 	•		-	• •	• •	= 1		•	-	-
69.												•		-	•								1 =
70.																							
71.			•••	::	•••	•	:: ••	•••	•••	•	, =	• • • :	•		•	•		= 1		-	•		
										•													

71.2. technical, customer and client support services;

71.4. an email service provider.	
	40
73.	
74.	
75	
75.1.	
75.2. what password he uses;	
75.3.	
	
75.4.	

End of Warranties

Schedule 5: Press release

[Set down the text you have agreed.]

Explanatory notes:

Business sale agreement: professional service provider

General notes

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, and the

2. The Guarantee

This note covers the general proposition about a guarantee. As you will appreciate, a contract with a company is often worth nothing. The money you pay could be in the Bahamas with the director and his wife a few hours after you have completed. If you buy from a human person, you are safer, but

You can obtain additional security by structuring your deal for payment in instalments, particularly if the amount is related to profit performance. Most sellers will be reluctant to accept this,

3. 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

4. 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

5. 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

6. Leasehold property references

A formal legal assignment of each property will be required. This document contains a form of assignment of leasehold in the first schedule. It should be repeated for each leasehold property separately. Do

7. Initial extra pages

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

Paragraph specific notes

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 **E E E E E E E E E E E E E**.

You should first decide on the contents of the document, then return to check what definitions are needed and whether they really •••••••••••••••••••••••••••••••••••
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
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
Agreement for sale
There is an overlap in this list: use the descriptions that are ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■
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 for a claim. In most cases however, the basis for a claim would

2.

3.

4.

5.

6.

7.

It may be important to specify prices $\blacksquare \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare$:

Leasehold property
Assets
Intellectual Property
You should consult an accountant as to the most favourable apportionments, although the other party will also have a view as •••••••••••••••••••••••••••••••••••
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 of them when you send him with a copy of this agreement in final form. Remember to
a .
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, such as keys and certain books of account. If the buyer will not be
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 deal. That means the seller has to contact all these people and sort out their systems and procedures. He
Alternatively, the buyer should open his own separate account with each service provider. Even that ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■
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

Goodwill

8.

9.

	.
	The power to rescind is very strong. Usually, when a buyer has taken control of ••••••••••••••••••••••••••••••••••
10.	Transfer of Employees
	In law, an employer has an obligation to not sell or transfer any
	While it is the responsibility of the seller to make certain that the law is complied with, the
	You can access more information at:
	https://www.employment.govt.nz/workplace-policies/workplace-change/restructuring-when-business-sold-or-transferred/
11.	Debtors
	The arrangement we have provided is the most common ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■
12.	Creditors and liabilities
	We think this is a good arrangement but • • • • • • • • • • • • • • • • • • •
13.	Goods and Services Tax (GST)
	Sale of business as going concern from one registered person to another registered person is zero-rated
14.	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 ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■
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 ••••••••••••••••••••••••••••••••••
Limitation of Seller's liability
This paragraph limits the liability of the seller. This is a usual provision, but flexible,
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

15.

16.

17.	The Guarantee
	This agreement is guaranteed by two individuals. If the seller is \blacksquare
	This is a very tough guarantee. It assumes that the guarantors are able to perform - that they are the people with whom you have negotiated your purchase. In court, a guarantee is usually treated as
18.	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
19.	Publicity / Announcements
	Edit or delete.
20.	Damages not adequate
	Technical provision to prevent a judge from insisting on damages only, ■ ■ ■
21.	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 • • • • • • • • • • • • • • • • • • •
Schedule 1: Leasehold property
We have provided a full leasehold assignment ■ ■ ■ ■ , ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■
However, the seller should also require a document in which the landlord gives his consent to the assignment and accepts the buyer as his new tenant If he fails to do so, the buyer is technically a
Schedule 2: Assets
List assets to be sold
Schedule 3: Excluded Assets
List excluded assets
Schedule 4: Warranties:
Note: matters relating to warranties
To use this document you have to understand how warranties work. They are simpler than you thought! Here now is an
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 is the "back-to-front" way in which the buyer or his lawyer pulls out information from a seller.

The re	eply to this ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■
at all.	finally, let us suppose the warranty had not been in the draft agreement This is what would have happened:
■ ■ ■ You m	nay find aspects of my illustration to be immoral. That may \blacksquare \blacksquare \blacksquare \blacksquare
, .	
The "and to	task" of the seller is essentially to provide full and truthful information
	
As a s	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
Warra	inties - buyer's response
	want a fair and satisfactory outcome, use warranties.
unreas	ver, if your warranties are all "absolute" in matters where it is sonable to expect the seller to •••••••••••••••••••••••••••••••••••
	at the warranties according to the transaction. Do not include warranties
If the	seller is represented by a solicitor, you will have to decide whether this
create	es an unlevel playing field.

Some solicitors 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,
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,
.,,,

The most important answers sought here are as •••••••••••••••••••••••••••••••••••
Trading and Contracts
This section covers every contract - from clients and suppliers to the office cleaner and the car leases. Particular care should be taken with
The buyer's requirement for details of clients and suppliers will be • • • • • • • • • • • • • • • • • •
The most common reason for litigation about contracts arises because someone
Employees The proposition in law intends to support a fair process and holds • • • • • •
Despite these extensive
These warranties are general, ••••••••••••••••••••••••••••••••••••

Litigation and regulation We have no comment Leasehold Properties Most of these items cover the facts that would be Intellectual Property All businesses acquire 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 Intellectual property.

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Schedule 5 - Press release

Provide text or delete if not required

End of notes