UK-COMbsl04

# Business sale agreement: restaurant; pub or bar

**Date:** [date]

**Between:**

**The Buyer is:** [name] ■ ■ ■ ■ [ ■ ■ ■ ■ ]

**The Seller is:** [name] ■ ■ ■ ■ [ ■ ■ ■ ■ ]

**The Guarantor is:** [name] ■ ■ ■ ■ [ ■ ■ ■ ■ ]

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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 Limited, a company incorporated in England and Wales [under company registration number [number] ■ ■ ■ ■ ] ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ [ ■ ■ ■ ■ ■ ■ ■ ■ ].

**The Seller is:** DEF Limited, a company incorporated in England and Wales [under company registration number [number] ■ ■ ■ ■ ] ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ [ ■ ■ ■ ■ ■ ■ ■ ■ ].

**The First Guarantor is:** [name]

**of** [private address]

**The Second Guarantor is:** [name]

**of** [private address]

*NOTE:*


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*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 ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ , ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■

"Contracts" means current contracts of the Seller in relation to the Business, [redacted].

"Creditors" means trade creditors and accrued charges in connection with the Business [redacted].

"Disclosures" means the disclosures set out in [redacted].

"Disclosure Letter" means the disclosure letter of the same date as this agreement from the Seller [redacted].

"Domain Name" means any or all of the [redacted]:

[name1].com

[name2].com

[name3].co.uk

"Employee" means a person who is employed by the Seller for [redacted].

"Excluded Assets" means the Assets listed in Schedule 3 which are owned by the Seller but [redacted].

"Goodwill" means the goodwill in relation to the Business, being goodwill of the Seller until [redacted].

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



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| | |
|---|---|
| "ISP" | means the Internet service provider; that is any provider of any service in [redacted]. |
| "Lease" | means the lease or leases under which the Property, [or [redacted],] [redacted] |
| "Payment Service Provider" | means the banking intermediary who provides the service of transferring money from the Website [redacted]. |
| "Price" | means the price to be paid [redacted]. |
| "Products / Services" | means the products and services sold by the [redacted]. |
| "Property/Properties" | means the freehold or leasehold properties, or both, owned or used by [redacted] 1. |
| "Stocks" | means stocks of Products, raw materials, work in progress and finished goods, and goods for re-sale owned by the Seller for the purposes of or in connection with the Business, including [redacted], [redacted], [redacted]. |
| "Warranty/Warranties" | means the warranties and undertakings of the Seller set out [redacted]. |
| "Website" | means www.[URL] and www.[URL] and includes any additional web pages and all software now or previously used in [redacted]. |



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## 2. Corporate seller provisions

If the Seller is a [redacted] - [redacted], [redacted]:

2.1. Every reference to the Seller shall be interpreted [redacted].

2.2. The Business may [redacted].

2.3. Every reference to the Business shall be interpreted as [redacted].

2.4. Every reference to the Company [redacted].

## 3. Interpretation

This agreement [redacted].

3.1. A reference to one [redacted].

3.2. In connection with any benefit given by [redacted], [redacted], [redacted].

3.3. A reference to a person includes reference to that person's successors, legal representatives, [redacted], [redacted], [redacted] - [redacted].

3.4. A reference to the knowledge, information, belief or awareness [redacted], [redacted], [redacted].

3.5. A reference to a paragraph or schedule is to [redacted]. [redacted].


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3.6. The headings to the paragraphs and schedules ( [redacted] ) [redacted] .

3.7. Any agreement by any party not to do or [redacted] .

3.8. [Except where stated otherwise], [redacted] .

3.9. A reference to an act or [redacted] .

3.10. All money sums mentioned in this [redacted] , [redacted] .

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

## 4. Entire agreement

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

4.2. So far as any relevant law permits, conditions, [redacted] , [redacted] .

4.3. Each of the parties warrants that he [redacted] [ [redacted] ].


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4.4. The Seller warrants and undertakes that he is not [redacted].

## 5. Buyer's acknowledgment of inspection

The Buyer admits that:

5.1. the Assets agreed [redacted]; [redacted]

5.2. he enters into this agreement on the basis of that inspection and not in reliance on [redacted], [redacted] [[redacted]].

## 6. Agreement for sale

6.1. Subject to the terms of this agreement, [redacted]:

6.1.1 the Business as a going concern;

6.1.2 the Goodwill;

6.1.3 the Property;

6.1.4 the Assets;

6.1.5 the Stocks;

6.1.6 the Intellectual Property rights;

6.1.7 the Domain Name(s);

6.1.8 the Website;

6.1.9 the benefit of the Contracts, [redacted];

6.1.10 all other Assets owned by [redacted], [redacted].


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6.2. Completion shall take place today, [redacted].

6.3. The assignment of the leasehold [redacted] 1 .

## 7. Transfer of Contracts

The Seller undertakes that for a period of [three] years, he will do his utmost [redacted] . [redacted] , [redacted] , [redacted] :

7.1. enter into any novation agreement.

7.2. provide information about any [redacted] [ [redacted] ] [redacted] .

7.3. confirm to any person or governmental authority such details [redacted] .

7.4. immediately inform the [redacted] .

## 8. The Price

8.1. The Price for the Business shall [redacted] :

| | |
|---|---|
| Goodwill | £ [ ] |
| Leasehold Properties | £ [ ] |
| Assets | £ [ ] |
| Intellectual Property rights | £ [ ] |
| Contracts and all other property | Nil |
| The Stocks | To be ascertained |


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**Total Price [excluding Stock]** **£ [ ]**

8.2. Insofar as this agreement provides for the transfer to the Buyer of [redacted]-[redacted], [redacted].

8.3. The Price shall be paid as follows:

8.3.1 as to £ [amount], by banker's draft / [redacted].

8.3.2 as to the [redacted], [redacted].

8.4. If the assignment of the Lease cannot be completed today, [redacted] / [redacted] £ [ [redacted] ] [redacted].

8.5. Value added tax will [redacted]:

*[list property on which VAT payable].*

*OR*

8.6. The Price [redacted].

# 9. Items to be delivered at completion

The Seller shall handover to the Buyer or otherwise delivers [redacted], [redacted], [redacted]:

9.1. whatever the [redacted];

9.2. all books [redacted], [redacted];

9.3. computer programmes [redacted];



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9.4. all data in electronic form, [redacted];

9.5. all information and records relating to customers and suppliers, including a list of all the [ [redacted] ] [redacted] [ [redacted] ], [redacted];

9.6. complete records relating to Employees, [redacted], [redacted] [ 6 ] [redacted].

9.7. [if the seller is a limited company] signed and certified copy of the minutes of a meeting of [redacted] [ [redacted] ];

9.8. assignment of the leasehold Property [unless [redacted], [redacted] ];

9.9. forms of transfer of [redacted];

9.10. transfers of the [redacted], [redacted];

9.11. marketing material of every sort in any medium;

9.12. all other [redacted].

## 10. Completion

10.1. As soon as the items listed above have passed into the possession [redacted], [redacted], [redacted].

10.2. 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. [redacted]


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[redacted].

10.3. As soon as possible and in any event within [two days] from [redacted], [redacted].

10.4. The Seller has a continuing obligation to do what is [redacted], [redacted] - [redacted], [redacted].

10.5. The Buyer shall not be obliged to [redacted].

10.6. If any or all of the transactions set out in this paragraph do not [redacted], [redacted].

## 11. Employees transferred

11.1. The parties agree that with effect from today, the [redacted].

11.2. The Buyer agrees to indemnify the Seller against any [redacted].


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## 12. Stocks

12.1. For the purpose of [redacted], [redacted] £ [ [redacted] ].

*OR*

12.2. The parties shall within [14 days] of today's date jointly attend to the [redacted], [redacted].

AND

12.3. Any dispute as to the value of the Stocks shall be referred for final settlement to a firm of [chartered accountants] nominated jointly by the Seller and the Buyer. The accountants shall be [redacted]. [redacted], [redacted]. [redacted] ( [redacted] ) [redacted].

AND

12.4. The amounts agreed or decided under the last previous sub-paragraph [redacted], [redacted] [ [redacted] ] [redacted].

12.5. The Seller shall be liable for [redacted].

## 13. Creditors and liabilities

13.1. The Seller shall immediately discharge all the debts of the [redacted], [redacted].


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*OR*

13.2. The Seller shall remain liable for all claims by third parties in respect of any [Products / Services] supplied by the Seller or any act or omission of the Seller prior [redacted] , [redacted] . [redacted] . [redacted] .

13.3. After today, the Buyer must discharge the outstanding obligations and liabilities of the Seller under the Contracts, [redacted] [ [redacted] / [redacted] ]. [redacted] .

13.4. The Buyer shall not be liable for any breach of any contract by the [redacted] . [redacted] , [redacted] .

## 14. Value Added Tax (VAT)

14.1. The parties shall procure that the sale of the Business is deemed to be [redacted] 1994 , [redacted] 49 [redacted] 4 [redacted] 8 ( 1 )( [redacted] ).

14.2. The Seller shall immediately deliver to the Buyer such value added [redacted] 1994 , [redacted] 49 [redacted] .

14.3. The Buyer shall for a period of not less than [6 years] [redacted] , [redacted] , [redacted] .


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## 15. Warranties by the Seller

15.1. The Seller warrants to the Buyer that:

15.1.1 the Warranties set [redacted] [ 4 ] [redacted];

15.1.2 the Disclosures are true, accurate and comprehensive;

15.1.3 where any Warranty refers to the knowledge, information [redacted], [redacted].

15.1.4 where the subject matter of a Warranty may refer both to the [redacted], [redacted].

15.2. The Seller agrees to indemnify the Buyer against all costs claims and [redacted].

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

*OR*

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

## 16. Limitation of Seller’s liability

16.1. Except in the case of death or personal injury, the total liability of the Seller under [redacted], [redacted], [redacted] £ [ 100 , 000 ]. [redacted], [redacted].



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16.2. This paragraph (and any other paragraph which excludes or restricts the liability of the Seller) applies to the Seller's directors, [redacted] 1999 / [redacted] 2017 , [redacted] .

## 17. Future activities

In order to give the [redacted] :

17.1. commence or continue any business or activity whatsoever [redacted] [ 3 ] [redacted] .

17.2. within [three years] of today, employ or provide work [redacted] [redacted] .

17.3. trade under any name [redacted] .

## 18. The Guarantee

18.1. [Each of] [redacted] :

18.1.1 that every statement, [redacted] ;

18.1.2 that he will procure [redacted] ;

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

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


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

18.4. This guarantee is limited to:

18.4.1 the sum of [sum] in total;

18.4.2 claims notified to [redacted] [[redacted]] [redacted].

## 19. Confidentiality

19.1. The Seller now undertakes that he will:

19.1.1 except as provided in this [redacted], [redacted], [redacted];

19.1.2 not use the Confidential [redacted];

19.1.3 not use any name or mark similar [redacted];

19.1.4 not use any trade name or [redacted].

19.2. The obligations set out in this paragraph [redacted].

19.3. The provisions of this paragraph shall continue [redacted] [[redacted]] [redacted].

## 20. Publicity / Announcements

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


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*OR*

20.2. No party shall:

20.2.1 make any public announcement; or

20.2.2 disclose any information; or

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

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

20.3. The parties agree to the issue of [redacted]6, [redacted].

## 21. Damages 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 remedy for [redacted], [redacted][[redacted]][redacted], [redacted], [redacted], [redacted][[redacted]/[redacted]][redacted].

## 22. Miscellaneous matters

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

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



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

22.4. 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].

22.5. The rights and obligations of the [redacted].

22.6. Any obligation in this agreement [redacted].

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

22.8. The parties agree that [redacted].

22.9. Any communication to be served on either party by [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: within 24 hours [redacted]-[redacted]. [[redacted]-[redacted]. [redacted], [redacted] ([redacted]) [redacted]].


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

22.11. [redacted], [redacted] ([redacted]) [redacted] 1999 / [redacted] ([redacted]) ([redacted]) [redacted] 2017 [redacted], [redacted], [redacted], [redacted], [redacted]. [redacted].

22.12. [redacted], [redacted].

22.13. [redacted].

22.14. [redacted].

22.15. [redacted], [redacted] [[redacted] / [redacted] / [redacted]] [redacted]..

**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.


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**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]


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## Schedule 1: Leasehold Property

[redacted]. [redacted] *50* [redacted].

*[*[redacted]*,* [redacted]*(*[redacted]*),* [redacted]*,* [redacted]*]*

1. [redacted].

2. [redacted] [redacted] [redacted].

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

4. [redacted].

*OR*

5. [redacted] £ [redacted] [redacted], [redacted].

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

7. [redacted], [redacted].

*OR*


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8. [redacted]

AND

9. [redacted]:

9.1 [redacted];

9.2 [redacted];

9.3 [redacted].

9.4 [redacted].

9.5 [redacted][7 [redacted]] [redacted].

9.6 [redacted].


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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


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## Schedule 2: Assets

*[list assets]*


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## Schedule 3: Excluded Assets

*[list excluded assets]*


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# Schedule 4: Warranties

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

## General

1. [redacted].

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

3. [redacted], [redacted].

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

5. [redacted].

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

7. [redacted], [redacted]-[redacted], [redacted].

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

## Accounts


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9. [redacted] [redacted] [redacted].

10. [redacted] [redacted].

11. The Accounts:

    11.1. [redacted];

    11.2. [redacted], [redacted];

    11.3. [redacted] 2006, [redacted];

    11.4. [redacted].

12. [redacted]:

    12.1. its purchase price;

    12.2. its production cost;

    12.3. its net realisable value.

13. [redacted].

14. [redacted], [redacted], [redacted]; [redacted]

    14.1. [redacted];

    14.2. [redacted].


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14.3. ■■■

[redacted].

23. [redacted], [redacted].

24. [redacted].

25. [redacted].

**Employees**

26. The Disclosure Letter contains for each Employee:

    26.1. an employment history;

    26.2. a curriculum vitae;

    26.3. terms of employment;

    26.4. non-contractual matters and informal arrangements.

27. [redacted].

28. [redacted]-[redacted].

29. [redacted][redacted], [redacted][redacted%[redacted].

30. [redacted][redacted].

31. [redacted]£[redacted].

32. The Seller is involved in no employment dispute.


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33. [redacted] , [redacted] .

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

35. [redacted] .

36. [redacted] [ 50 ] [redacted] .

**Statutory restrictions**

37. [redacted] - [redacted] , [redacted] 1980 [redacted] 2002 .

38. [redacted] , [redacted] .

39. [redacted] .

40. [redacted] .

**Litigation and regulation**

41. [redacted] .

42. [redacted] , [redacted] .


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43. ■■■

54.1. [redacted];

54.2. [redacted].

55. [redacted]:

55.1. water;

55.2. drainage;

55.3. electricity;

55.4. gas;

55.5. telecommunications.

56. [redacted].

57. [redacted].

58. As to the leases:

58.1. [redacted]. [redacted]. [redacted];

58.2. [redacted].

58.3. there are no rent reviews in progress.

59. [redacted], [redacted], [redacted], [redacted]- [redacted].

**Personal data protection**

60. [ [redacted] ] [redacted] 2018 .


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61. [■■■■■■■■■] ■■■■■■■■■

70. [redacted].

71. [redacted], [redacted].

72. [redacted], [redacted]:

72.1. [redacted];

72.2. technical, customer and client support services;

72.3. [redacted];

72.4. an email service provider.

73. [redacted]. [redacted] 12 [redacted].

74. [redacted], [redacted].

75. [redacted], [redacted]:

75.1. [redacted];

75.2. what password he uses;

75.3. [redacted].

75.4. [redacted].

**End of Warranties**


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# Schedule 5: Pension scheme


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## Schedule 6: Press release

*[Set down the text you have agreed].*


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# Explanatory notes:

**Business sale agreement: restaurant; pub or bar**

## General notes

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

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 ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ . ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ - ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ . ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■

If you would like our legal team to check your edited version, we ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ .

Please contact our support team at support@netlawman.co.uk for further information.

## Paragraph specific notes

(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, ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■

## 5. Buyer's acknowledgment of inspection

In practice the buyer will have inspected whatever he needs to inspect. This paragraph is usually required to protect the seller. If ■ ■ ■

## 9. 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 ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ , ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■

## 11. Employees transferred

The law is quite complicated, put very simple, an employer may not sell or transfer any business organisation ("undertaking") without also transferring the employees who work at that business. The relevant law is contained in the Transfer of Undertakings ( ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ) ■ ■ ■ ■ 2006 . ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ 4 ■ ■ ■ ■ ■ ■ ■ ■ :

### *Effect of relevant transfer on contracts of employment*

*(1) Except where objection is made under paragraph (7), a relevant transfer shall not operate so as to terminate the contract of employment of any person employed by the transferor and assigned to the organised grouping of resources or employees that is subject to the relevant transfer, which would otherwise be terminated by the transfer, but* ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■

[redacted] —

(a)the transfer itself; or

(b)a reason connected with the transfer that is not [redacted] , [redacted] .

(5) Paragraph (4) shall not prevent the employer and his employee, whose contract of employment is, or will [redacted] , [redacted] ( 1 ), [redacted] —

(a)a reason connected with the transfer that is an [redacted] , [redacted] ; [redacted]

(b)a [redacted] .

(6) Paragraph (2) shall not transfer or otherwise affect the liability [redacted] , [redacted] .

(7) Paragraphs (1) and (2) shall not operate to transfer the contract of employment and the rights, powers, duties [redacted] .

(8) Subject to paragraphs (9) and (11), where an employee so objects, the relevant transfer shall operate so as to [redacted] , [redacted] , [redacted] .

(9) Subject to regulation 9, where a relevant transfer involves or would involve a substantial change in working conditions to the material detriment of a person whose contract of employment is or would [redacted] ( 1 ), [redacted] , [redacted] .

(10) No damages shall be payable by an employer as a result of a dismissal falling within paragraph (9) in respect [redacted] .


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*(11) Paragraphs (1), (7), (8) and (9) are without prejudice to any right of an* [redacted] *.*

**12. Stocks**

Stock can be anything, so the agreement is drawn in broad terms. In practice, there will be occasions when ten people employed by auditors will be needed to count the stocks and other occasions when [redacted] . [redacted] . [redacted] , [redacted] , [redacted] .

**13. Creditors and liabilities**

We think this is a good arrangement but [redacted] . [redacted] .

**14. Value Added Tax (VAT)**

First, be sure to apply to be registered for VAT before this agreement is signed, so that [redacted] , [redacted] .

The paragraph refers to Section 49 . [redacted] :

## *Transfers of going concerns*

*(1) Where a business , or part of a business, carried on* [redacted] *,* [redacted] *—*

> *(a) for the purpose of determining whether the transferee is liable to be registered under this Act he shall be treated as having* [redacted] *;*

*(2) Without prejudice to subsection (1) above, the Commissioners may by regulations make provision for securing continuity in the application of this Act in cases where a business,* [redacted] *,* [redacted] *.*


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*(2A) Regulations under subsection (2) above may, in particular, provide for the duties under this Act of the transferor to preserve records relating to* ■ ■ ■

*(c) to make the records available for E's inspection at such time and place as E ■■■■■■■■■■■■■■ ( ■■■■■■■■■■■■■■

## 16. Limitation of Seller’s liability

This paragraph limits the liability of the seller. This is a usual provision, but flexible, [redacted].

## 17. 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 [redacted].

## 18. The Guarantee

This agreement is guaranteed by two individuals. If the seller is [redacted].

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 [redacted].

## 19. 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 [redacted].

## 20. Publicity / Announcements

Edit or delete.


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### 21. Damages not adequate

Technical provision to prevent a judge from insisting on damages only, [redacted].

### 22. 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 [redacted].

These are just as valid in law as if we had written them [redacted].

Rights of Third Parties Act - We have provided reference of two [redacted].

## Notes on the schedules

### Schedule 1: Leasehold property

We have provided a full leasehold assignment document, effective to [redacted].

However, the seller should also require a document in which the landlord gives his consent to the assignment [redacted].

### Schedule 2 - Assets

List assets to be sold

### Schedule 3 - Excluded Assets


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List excluded assets

**Schedule 4 - Warranties:**

## Note: matters relating to warranties

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

[redacted] .

In that way, before he can sue you, the buyer has to [redacted] , [redacted] . [redacted] . [redacted] :

“Where any warranty refers to the knowledge, information [redacted] , [redacted] ”. [redacted] , [redacted] , [redacted] !

**Suppose the seller warrants:**

“Neither the seller nor any of its shareholders [redacted] , [redacted] , [redacted] .”

The reply to this [redacted] .

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

You may find aspects of my illustration to be immoral. That may [redacted] . [redacted] , [redacted] . [redacted] , [redacted] .

**Warranties - seller’s tactics**

The “task” of the seller is essentially to provide full and truthful information and to [redacted] . [redacted] , [redacted] . [redacted]


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[redacted]

As a seller, [redacted]:

- You be the one to [redacted]
- When you receive the draft [redacted]
- in your draft disclosure letter, which [redacted]
- Consider the breadth of each warranty. [redacted]
- Even where you “answer” the warranty in some [redacted]
- At all costs avoid the easy way out of leaving the warranties [redacted]

**Warranties - buyer’s response**

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

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

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


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[redacted]

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

Some solicitors acting for a buyer will see the provision of warranties as an opportunity to go back to [redacted]

## Warranties: drafting notes continued

It is good practice to delete irrelevant warranties, [redacted]

### General

These are very [redacted]

With reference to licences and consents: in any business which has been operating for more [redacted]

### Accounts

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


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■ ■ ■ 

These warranties are general, [redacted] - [redacted] .

**Litigation and regulation**

We have no comment

**Leasehold Properties**

Most of these items [redacted] .

**Personal data protection**

We suggest leave it as is.

**Intellectual Property**

All businesses acquire some intellectual property. Even quite small [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] .

**Schedule 5 - Pension scheme**

Provide the details of pension scheme and arrangements

**Schedule 6 - Press release**

Provide text or delete if not required

# End of notes


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