Business sale agreement: Internet-based services provider

Date: [date]

Between:

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

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

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

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- 2. Corporate seller provisions
- 3. Interpretation
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- 12. Creditors and liabilities
- 13. Value Added Tax (VAT)
- 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: Assets

Schedule 2: Excluded Assets
Schedule 3: Press release
Schedule 4: Warranties

General Accounts Assets

Trading and contracts

Employees

Statutory restrictions Litigation and regulation Personal data protection Intellectual Property

Information technology ("IT")

Schedule 5: Pension scheme

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:

" = = = = = = = = = .	
we have assumed that the seller is an individual, but ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■	
whichever does not apply. Do the same for the buyer. Throughout this agreement,	
The personal version is for an individual seller and not a company seller. Delete	

It is now agreed as follows:

1. Definitions

So far as the context permi	ts, 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 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
"Contracts"	means current contracts of the Seller in relation to the Business, •••••••••••••••••••••••••••••••••••
"Creditors"	means trade creditors and accrued charges in connection with the Business • • • • • • • • • • • • • • • • • •
"Disclosures"	means the disclosures set out in \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare
"Disclosure Letter"	means the disclosure letter of the same date as this agreement from the Seller • • • • • • • • • • • • • • • • • • •
"Domain Name"	means any or all of the •••••••••••••••••••••••••••••••••••
	[name1].com
	[name2].com
	[name3].co.uk
"Employee"	means a person who is employed by the Seller for \blacksquare
"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 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 •••••••••••••••••••••••••••••••••••
"Know-how"	means scientific or technical information, and other procedures and ways of working and organising
"Lease"	means the lease or leases • • • • • • • • • • • • • • • • • •
"Payment Service Provider"	means the banking intermediary who provides
"Price"	means the • • • • • • • • • • • • • • • • • • •
"Products / Services"	means the products
"Third Party Software"	means software owned by some ••••••••••••••••••••••••••••••••••••
"Warranty/Warranties"	means the warranties and
"Website"	means www.[URL] and www.[URL] and ■ ■ ■ ■



2. Co	porate	seller	provisions
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If the	Seller is a
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 • • • • • • •
24	Every reference to the Company ••••••••••••••••••••••••••••••••••••
_	
Inte	rpretation
This	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,

	3.4.	A reference to a paragraph or schedule is to
	3.5.	The headings to the paragraphs and schedules (• • • • • •) • •
	3.6.	Any agreement by any party not to do or
	3.7.	A reference to an act or
	3.8.	All money sums mentioned in this • • • • • • • • • • • • • • • • • • •
	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
4.	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,
	4.3.	Each of the parties warrants that he • • • • • • • • • • • • • • • • • •

4.4.	The S	eller warrants and undertakes that he is not ■ ■ ■ ■ ■ ■ ■ ■ ■ ■
		= = .
Agr	eeme	nt 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 Goodwill;
	5.1.3	the Assets, excluding the Excluded 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
5.2.	Compl	etion shall take place today,
Tra	nsfer	of Contracts
The	Seller un	dertakes that for a period of [three] years, he will do his utmost
		,
6.1.	enter i	nto any novation agreement.
6.2.	-	e information about any = = = = = = = = = = = = = = [= = =] = = = .
6.3.	confirm	n to any person or governmental authority such details ■ ■ ■ ■

	•••.		•••••	•
6.4.	immediately inform the	•••		-
The	Price			
7.1.	The Price for the Business shall		•••••	I _
	•••••		•••••	
	Goodwill	£[1	
	Assets	£[1	
	Intellectual Property rights	£[1	
	The Contracts and other intellectual property rights	Nil		
	Total Price	£[1	
7.2.	Insofar as this agreement provides for the transfer to	the B	uyer of ■ ■	•
7.3.	The Price shall be paid as to £ [amount], ■ ■ ■ ■ ■		/	ı
7.0.			• • • • •	•
7.4.	If the assignment of the Lease cannot be completed			
	•••••			
7.5.	Value added tax will • • • • • • • • • • • • • • • • • •		•••••	i
	[list property on which VAT payable]			
OR				
7.6.	The Price			

8. Items to be delivered at completion

	eller shall handover to the Buyer or otherwise deliver ,
8.1.	whatever the = = = = = = = = = = = = = = = = = = =
8.2.	all books of account, •••••;
8.3.	a list of user names •••••••;
8.4.	all data relating to the business,
8.5.	all information and records relating to customers and suppliers, including a list of all the [• • • •] • • • • • • • • • • • • • •
8.6.	complete records relating to Employees, •••••••••••••••••••••••••••••••••••
8.7.	signed and certified copy of the minutes of a meeting of the shareholders of the Company authorising
8.8.	forms of transfer • • • • • ;
8.9.	transfers of the • • • • • • • • • • • • • • • • • • •
8.10.	forms of authority addressed to
8.11.	technical and
8.12.	marketing material of every sort in any medium;

9. Completion

- 9.3. 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.
- 9.4. As soon as possible and in any event within [two days] from today,
- 9.6. The Buyer shall not be obliged to
- 9.7. If any or all of the transactions set out in this paragraph do not

10. Employees transferred

10.1.	The parties agree that with effect from today, the
10.2.	The Buyer agrees to indemnify the Seller against any
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,
11.4.	Unless the debtor shows a contrary intention when making payment,
11.5.	The Seller may inspect the books of the Buyer for

12. Creditors and liabilities

12.2. After today, the Buyer must discharge the outstanding obligations and liabilities of the Seller under the Contracts,

13. Value Added Tax (VAT)

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

1994, ••••49••••44•••8 (1)(••••).

13.3. The Buyer shall for a period of not less than [6 years]

14. Warranties by the Seller

14.1. The Seller warrants to the Buyer that:

		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	ller agrees to indemnify the Buyer against all costs, claims and
	14.3.	The Wa	arranties in this agreement are not
	OR		
	14.4.	no clair	arranties in this agreement are not limited in monetary value, but n
15.	Limi	itation	of Seller's liability
	15.1.	Seller u	in the case of death or personal injury, the total liability of the inder ••••••••••••••••••••••••••••••••••••
	15.2.	the liab	ragraph (and any other paragraph which excludes or restricts ility of the Seller) applies to the Seller's directors, ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■

16.	Futu	ure Activities
		er to give the
	16.1.	commence or continue
	16.2.	within [three years] of today, promote the sale of any service which competes with any service • • • • • • • • • • • • • • • • • • •
	16.3.	within [three years] of today, employ or provide work
	16.4.	trade under any name • • • • • • • • • • • • • • • • • • •
	16.5.	register nor 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 ••••••• ;

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	17.1.3	that he will indemnify the Buyer against all
17.2.		of] The Guarantor accepts that compliance by the ,
17.3.	[Each o	of] The Guarantor accepts that the Buyer is
17.4.	This gu	arantee is limited to:
	17.4.1	the sum of [sum] in total;
	17.4.2	claims notified to \blacksquare
Con	fident	iality
18.1.	The Se	eller now undertakes that he will:
	18.1.1	except as provided in this •••, ••••;
	18.1.2	not use the Confidential • • • • • • • • • • • • • • • • • • •
	18.1.3	not use any name or mark similar • • • • • • • • • • • • • • • • • • •
	18.1.4	not use any trade name or • • • • • • • • • • • • • • • • • •
18.2.	-	aragraph does not apply to disclosure to the extent required he rules of any stock exchange or by applicable ■ ■ ■ ■ ■ ■ ■

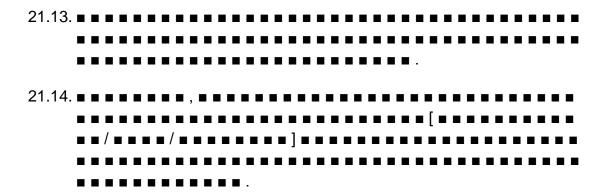
	18.3.	The obligations set out in this paragraph
	18.4.	The provisions of this paragraph shall continue
19.	Pub	licity / Announcements
	19.1.	No public or press announcement shall be made • • • • • • • • • • • • • • • • • • •
	OR	
	19.2.	No party shall:
		19.2.1 make any public announcement; or
		19.2.2 disclose any information; or
		19.2.3
	19.3.	3,
20.	Dan	nages not adequate
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21. Miscellaneous matters

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21.11.					• • • •	9/			
21.11.					• • • • • • • • • • • • • • • • • • •	9/			
					1999 2017				



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 [Company name in full]

AND

Signed by [Buyer name in full]

AND

Signed by [Guarantor name in full]

OR

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 1: Assets

[list assets]

Schedule 2: Excluded Assets

[list excluded assets]

Schedule 3: Press release

[Set down the text you have agreed.]

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Gener	al																										
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Accounts

9.	
10.	• [• • • • • • • • • • •].
11.	The Accounts:
	11.1.
	11.2.
	11.3.
	11.4.
12.	:
	12.1. its purchase price;
	12.2. its net realisable value.
13.	
14.	Since the Last Accounts Date:
	14.1.
	14.2.
	14.3.

15.	
Asset	es e
16.	All Assets:
	16.1. are transferred by this agreement and
	16.2.
	;
	16.3.
	;
17.	-[£[]]
Tradii	ng and Contracts
11auii 18.	ng and Contracts
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24.	
25.	
26.	
Emplo	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.	The Seller is involved in no employment dispute.
33.	

34.		• • •		• •		-					•					•		-	•			•	-	• •
35.	•••																							
36.	•••		• • •			-	 - 1				•		•											
Statut	tory r	estr	icti	ons	;																			
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Personal data protection

44.	-]								
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Infori	mation	technology ("IT")								
54.	•••		: = : =		• •	•	.		•	
	54.1.	the name;	- =		_ =	_	-			
	54.2.	name and contact information of registrant;								

	54.3.	
	54.4.	date to which the name is registered.
55.		
56.	•••	
57.		;
58.		
	58.1.	
	58.2.	technical, customer and client support services;
	58.3.	;
	58.4.	an email service provider.
59.		
60.		
61.		
62.		

_	
62.2.	what password he uses;
62.3.	
62.4.	

End of Warranties

Schedule5: Pension scheme

Explanatory notes:

Business sale agreement: Internet-based services provider

General notes:

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

1. Parties named

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 \blacksquare \blacksquare \blacksquare \blacksquare

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. Initial extra pages

7. Recognition of our copyright in this document

We assert our copyright in this document. When you downloaded it, you agreed to our terms and conditions, which set out in full how it may and may not be used. Without amending those terms, we remind you that you may not distribute it further or republish it in any way without permission from Net

Once you have edited the document for final use, you may remove the

8. Document review service

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

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,

But if you do change any defined word, make sure it applies to every capitalised use

2. Corporate seller provisions

3. 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.

4. 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 ***** ******

5. Agreement for sale

This is your deal. Do not delete it or you may find you have no contract! Use the descriptions

6. 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 sel	ller. If he ■ ■ ■ ■ ■ ■ ■	
		,

7. 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

- Goodwill
- Assets
- Intellectual Property

8. 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

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. The business buyer needs the transfers in order to operate the business. He cannot afford to risk buying the business before the payment service is operating to

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. Domain names may present some difficulty since there are no provisions for a conditional transfer. The buyer has to decide how long he is prepared to allow for the transfer and whether he will avoid the contract if the seller fails to arrange the transfers. It is certainly useful to the buyer if
,
The power to rescind is very strong. Usually, when a buyer has taken control of a business, neither side wants to contemplate rescission.
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 (• • • • • • • • • • • • • • • • • •
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

9.

(2) Without prejudice to paragraph (1), but subject to paragraph (6), and regulations 8 and 15(9), \blacksquare
(a)all the transferor's rights, powers, duties and liabilities under or in connection with any such contract shall be transferred by ■ ■ ■ ■ ■ ■
(b)any act or omission before the transfer is completed, of or in relation to the transferor in respect of that contract or a person assigned to that organised grouping of resources or employees, shall be deemed ■ ■ ■
(3) Any reference in paragraph (1) to a person employed by the transferor and assigned to the organised grouping of resources or employees that is subject to a relevant transfer, is a reference to a person so employed immediately before the transfer, or who would have been so • • • • • • • • • • • • • • • • • •
1), ,
(4) Subject to regulation 9, in respect of a contract of employment that is, or will be, transferred
(a)the transfer itself; or
(b)a reason connected with the transfer that is not ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■
(5) Paragraph (4) shall not prevent the employer and his employee, whose contract of employment is, or will \blacksquare
(a)a reason connected with the transfer that is an \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare
(b)a
(6) Paragraph (2) shall not transfer or otherwise affect the liability • • • • •

	(7) Paragraphs (1) and (2) shall not operate to transfer the contract of employment and the rights, powers, duties
	(8) Subject to paragraphs (9) and (11), where an employee so objects, the relevant transfer shall operate so as to ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■
	(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
	(10) No damages shall be payable by an employer as a result of a dismissal falling within paragraph (9) in respect
	•••
	(11) Paragraphs (1), (7), (8) and (9) are without prejudice to any right of an ■
11.	Debtors
	The arrangement we have provided is the most common ••••••••••••••••••••••••••••••••••
12.	Creditors and liabilities
	We think this is a good arrangement but ••••••••••••••••••••••••••••••••••
13.	Value Added Tax (VAT)
	First, be sure to apply to be registered for VAT before this agreement is signed, so that

The paragraph refers to Section 49 .
Transfers of going concerns
(1) Where a business , or part of a business, carried on ■ ■ ■ ■ ■ ■ ■ ■ ■
••,••••
(a) for the purpose of determining whether the transferee is liable to be registered under this Act he shall be treated as having ■ ■ ■ ■ ■ ■ ■ ■
;
(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, $\blacksquare \blacksquare \blacksquare$
(2A) Regulations under subsection (2) above may, in particular,
provide for the duties under this Act of the transferor to preserve records relating to
,,,
(3) Regulations under subsection (2) • • • • • • • • • • • • • • • • • • •
(a)for liabilities and duties under this Act (excluding sections 59 to 70) of the transferor (other than the duties mentioned in \blacksquare \blacksquare \blacksquare (2A) \blacksquare \blacksquare
(b) for any right of either of them to repayment or credit in respect ■ ■ ■
but no such provision as is mentioned in paragraph (a) or (b) of this subsection shall have

(4) Subsection (5) = = = = = = = = = —
(a) a business, or part of a business, carried on ■ ■ ■ ■ ■ ■ ■ ■ ■ ■
,
(b) the transferor continues to be required under this Act to preserve for
(5) So far as is necessary for the purpose of complying with the \blacksquare
(a) to give to E, within such time and in such form as \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare
(b) to give to E, within such time and in such form as E may ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■
(c) to make the records available for E's inspection at such time and place as E = = = = = = = = = (= = = = = = = = =
(6) Where a business, or part of a business, carried on by a taxable person is transferred to another person as a going concern, the Commissioners may disclose
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
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

17. The Guarantee

15.

This agreement is guaranteed by two individuals. If the seller is \blacksquare \blacksquare \blacksquare \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
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
Publicity / Announcements
Edit or delete.
Damages not adequate
Technical provision to prevent a judge from insisting on damages only, ■ ■ ■
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 ,
■■.

18.

19.

20.

Rights of Third Parties Act - We have provided reference of two • • • • . • • • • • • • • • • • • • •
Notes on the schedules
Schedule 1 - Assets
List assets to be sold
Schedule 2 - Excluded Assets
List excluded assets
Schedule 3 - Press release
Provide text or delete if not required
Schedule 4 - 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:	-
This is what would have happened:	

,	
You m	ay find aspects of my illustration to be immoral. That may
	,,
10 /2 mm	
	nties - seller's tactics task" of the seller is essentially to provide full and truthful information and to ■
Asas	eller, = = = = = = = = = = = = = = = = = = =
•	You be the one to •••••••••••••••••••••••••••••••••••
•	; \blacksquare \blacksquare \blacksquare When you receive the draft \blacksquare \blacksquare \blacksquare , \blacksquare
	;
•	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

Warranties: drafting notes continued	•••
Some solicitors acting for a buyer will see the provision of warranties as an opportunity to go back to	•••
If the seller is represented by a solicitor, you will have to decide whether this cran unlevel playing field.	 - ".
Set out the warranties according to the transaction. Do not include warranties v	vhich
However, if your warranties are all "absolute" in matters where it is unreasonable expect the seller to	
If you want a fair and satisfactory outcome, use 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,
Assets
The most important answers sought here are as •••••••••••••••••••••••••••••••••••
Trading and Contracts
This section covers every contract - from customers and suppliers to the office cleaner and the car leases. Particular care should be taken with
The buyer's requirement for details of customers and suppliers will be • • • • • • • • • • • • • • • • • •
The most common reason for litigation about contracts arises because someone, ■ ■

,,,,,
Employees
You may wish to read the Net Lawman article on transfer of business ownership at http://www.netlawman.co.uk/ia/transfer-undertakings-guidance-employers . The proposition in law is that the transfer of the ownership of any employment establishment ("undertaking") is not a satisfactory reason to terminate the employment of any employee. Employees are handed over with their employment history intact, for better or for worse.
Despite these extensive
Statutory restrictions
These warranties are general, ••••••••••••••••••••••••••••••••••••
Litigation and regulation
We have no comment
Personal data protection
We suggest leave it as is.
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

Schedule 5 - Pension scheme

Provide the details of pension scheme and arrangements

End of notes