Business sale agreement: sports coach or personal trainer

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General

### Agreement for the Sale and Purchase of the **EFF EFF EFF EFF EFF EFF**

The Date of this Agreement is: [Date]

The Seller is: [name] of [private address]
The Buyer is: [name] of [private address]

[Note: if a party is a company, • • • • • • • • • • • • • • • ]

It is now agreed as follows:

#### 1. Definitions

So far as the context permits, the following words  $\blacksquare$   $\blacksquare$   $\blacksquare$   $\blacksquare$ ----: "Accounts" means the audited profit and loss account of the Business for the year ended [date] and the balance --------------. "Accounts Date" means the date to which the Principal ........... "Business" means the [type of business] business carried on by .[......].............. "Client" means a client of the Business. "Confidential means all information about the Business. It includes Information" among other things, information about staff, and their personal contact information, methods of doing business, future plans, policies, suppliers and ..................... "Contracts" means current contracts of the Seller in relation to . . . . . "Disclosures" means the disclosures set out in a disclosure letter of today's date from the .................. "Domain Name" means any or all of the ■:

[name].com [name2].com [name3].co.za "Goodwill" means the goodwill in relation to the Business, being goodwill of the Seller until "Intellectual Property" means all intellectual property owned by the Seller and used in the Business, including intellectual property of every sort, whether or not registered or registrable in any country, including intellectual property of kinds coming into existence after today; . . . . . . . , . . . . , . . . , . . . . , . . . . ...,...,................ "ISP" means the Internet service provider; that is any "Party" means a party to this Agreement and "Parties" ■ ■ "Price" "Services" "Third Party Software" means software owned by some person other than the Seller and used "Warranties" means the warranties and  $\blacksquare \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare$ "Website" means www.[URL] and www.[URL] and ■ ■ ■ ■ -----------

### 2. Agreement for Sale

2.1. This Agreement, Warranties,

	2.2.	Subje ■ ■ ■	ect to the terms of this Agreement,	••••	••
			:		
		2.2.1	the Business as a going concern,		
		2.2.2	the Goodwill;		
		2.2.3	the Intellectual Property Rights;		
		2.2.4	the Domain Name(s);		
		2.2.5	the Website;		
		2.2.6	rights to use Third Party Software;		
		2.2.7	the benefit of the Contracts;		
	2.3.	Comp	oletion shall take place today, ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ ■	:	
3.	The	Purc	hase Price		
	3.1.	The F	Price for the business shall		••
			••••	••••	••
		goodw	rill ■■■■	[	]
		intelled	ctual property rights	[	]
		contra	cts and	ı <b>■ ■</b>	
		total p	rice [excluding = = = ]	[	]
	3.2.	The F	Price shall be paid as to R [amount], by ■ ■ ■ ■ ■ ■	-/	••
					••
	3.3.	Value ■ ■ ■	e added tax will = = = = = = = = = = = = = = = = = =		
		[List pr	roperty on which VAT payable]		
	OR				
	3.4.	The F	Price		

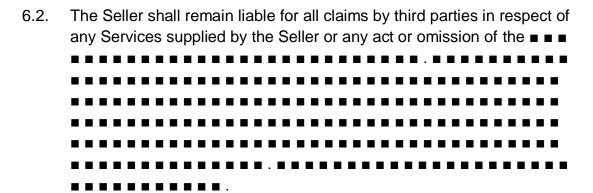
## 4. Items to be delivered at Completion

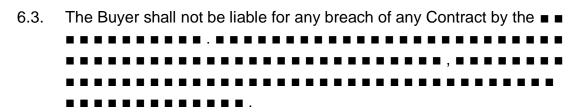
	eller shall hand to the buyer or otherwise deliver
4.1.	All books of account, including vat records;
4.2.	Computer programmes • • • • • • • • • • • • • • • • • • •
4.3.	All data of the business stored • • • • • • • • • • • • • • • • • • •
4.4.	All information and records relating to clients and suppliers, including a list of all the [ • • • ] • • • • • • • • • • • • • • •
4.5.	Marketing material in any medium;
4.6.	[if the seller is a limited company] signed and certified copy of the minutes of a meeting of
4.7.	Contracts and assignments of contracts;
4.8.	Forms of transfer of •••••;
4.9.	Transfers of the • • • • • • • • • • • • • • • • • • •
4.10.	Forms of authority addressed to the owners of
	,
4.11.	All technical and
4.12.	Marketing material of every sort in any medium;
4.13.	[a list of sales distributors and agents, identifying

	4.14.	All other
5.	Com	pletion
	5.1.	As soon as the items listed above have passed • • • • • • • • • • • • • • • • • • •
	5.2.	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.
	5.3.	As soon as possible and in any event within two days from the date hereof,
	5.4.	The Seller has a continuing obligation to do what is •••, ••••
	5.5.	The Buyer shall not be obliged to
	5.6.	If any or all of the transactions set out in this paragraph do not

#### 6. Debtors and Liabilities

0.1.	The Seller shall immediately discharge all the debts of the





### 7. Value Added Tax (VAT)

7.1.	The Parties shall procure that the sale of the Business

1.2.	The Seller shall immediately deliver to the

7.3.	The Buyer shall for a period of not less than 6 years from ■ ■ ■ ■ ■

### 8. Warranties by the Seller

The seller warrants to the buyer that:

	8.2.	The warranties set •••••••••••••••••••••••••••••••••		
	8.3.	The disclosures are true, accurate and comprehensive;		
	8.4.	Where any warranty refers to the knowledge, information		
	8.5.	The seller agrees to indemnify the buyer against all costs claims and		
9.	Futu	re Activities		
	In order to give the <b></b>			
	9.1.	Commence or continue any business or activity whatsoever similar to		
	9.2.	At any time disclose to any person or •••••;		
	9.3.	For a period of [2] years after today either on his own account or through any other person		
	9.4.	For a period of [2] years after today's date without the buyer's prior written		
		;		

	9.5.	Trade under any name • • • • • • • • • • • • • • • • • • •
	9.6.	Register nor purchase nor use any internet domain
10.	Com	munications
	10.1.	Any communication to be served on either of the Parties
11.	Misc	ellaneous Matters
	11.1.	The headings
	11.2.	Any cause of action arising out of or related to
	11.3.	

 - , -
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•••

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

Witness to signature: name:

Address

Signed by [personal name], duly authorized for the Buyer

Witness to signature: name:

Address

Schedule 1 - Warranties				
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1.	Since	the Accounts Date:		
	1.1.	The Business has operated in its normal way;		
	1.2.	;		
	1.3.			
	1.4.			
	1.5.			
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Suppliers	and	Clients

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Joint	Ventur	res a	nd P	'artn	ersl	nips	;															
11.	The S	eller	•																			
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Conti	racts
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21.	None of the Contracts:
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**End of warranties** 

# **Explanatory notes:**

Business sale agreement: sports coach or personal trainer

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U	!I 1 E	<b>!!</b> 7		OL	HS.

1.	This is a long document which requires many changes. We suggest you save a perfect copy in case ••••••••••••••••••••••••••••••••••••
2.	There is little statutory interference in a negotiation of this nature. You may therefore add to or delete from $\blacksquare$
3.	This document is usually drawn and submitted by the Buyer to the Seller. It is good practice to delete irrelevant warranties, but by all means leave in "tough ones. You may be surprised what comes "
4.	There are very many points where your input is required. We suggest you search for square brackets automatically in order to check
5.	It is essential for a smooth transaction that the Seller gets together absolutely all the documents which will be needed on completion. It is a good idea to provide a list of them to the Buyer with a copy of this agreement in final form. Ask for approval of the list.
	•
6.	The Buyer should not hesitate to apportion the purchase price among the assets so that he does not pay for items he is not getting. Agreement should be •••••••••••••••••••••••••••••••••••
7.	As for the warranties, the Seller should console himself with the thought that any claim by the Buyer for breach of warranty must prove money loss to the Buyer and that the Buyer is under a duty to reduce his loss so far as reasonably possible. As a result, it is generally worth
	""".

## Paragraph specific notes:

Note: numbering refers to paragraph numbers.

#### 1 Definitions

2

4

Definitions	
It is of course fundamental to the agreement to specify the subjective precisely. One of the reasons for so many defined terms is so the paragraph is simple and devoid of long descriptions. There is so between the terms,	at this
We know your first thought will be: "Good heavens, do I really no Well, the answer is "Yes, probably". Even the smallest business (we hope!) confidential info	has accounts
The term "Contracts is intentionally broad, so as to cover many t business. It could include contracts to buy, sell or	• •
The term "Third Party Software" is relevant because you never be software. What happens in law is that you get a licence to use it. computer is full of software you do not own. If you buy a busines to take over all those licences. So the document has to provide fis more: if any owner tells you the licence is not transferable you pay afresh. But you	So your s, you expect or that. There
	•••••
Agreement for Sale	
There may be some overlap in this list: use the descriptions that	are∎∎∎∎
Items to be delivered at completion	
It is not of course necessary to physically move or hand assets to Delivery means delivery of possession. Some assets may of couhanded over physically, such as keys and certain books of according to the second se	ırse be
The necessity to transfer rights and contracts with third party supproblems. Issues arise because Internet service suppliers usuall inflexible standard terms. Many have no procedure for fast transservice. This puts a business Buyer in a difficult position. Take a service provider. The business Buyer needs the transfers in order	y operate on fer of their payment

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the business. He cannot afford to risk buying the business before the payment service is operating to

	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
5	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 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
5.7	The power to rescind is very strong. Usually, when a Buyer has taken control of a business, neither side wants to contemplate ••••••••••••••••••••••••••••••••••••
7	Value added tax
	First, be sure to apply to be registered for VAT before this agreement is signed, so that
8	Warranties by the Seller
	This confirmation of the warranties is critical to the protection ••••••
9	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 •••••••••••••••••••••••

	••••
11	Misc Matters
	Leave all these provisions in place unless you $\blacksquare \blacksquare \blacksquare$
Matte	rs relating to warranties
simple	e this document you have to understand how warranties work. They are er than you thought! Here now is an
Warra	inties - the inside-out promises
to con	ow address the task itself and tell you how to make it happen. The first matter sider is the "back-to-front" way in which the Buyer or his lawyer pulls out ation from a Seller.
•••	
•••	
about first co	greement is drawn by the Buyer. That is fair because the Buyer knows nothing the business and the Seller knows everything (we hope)! So the agreement overs the mechanics of the deal - what is being sold, where it is, how it is to be erred, and so on. Then it
•••	
	,
agree	nties work like this: I am a Seller. You produce an agreement. In that ment,
The le	etter of disclosure is the other "half" of the process. In my letter of disclosure, I need to the warranties you have written in to the agreement. I then the them in the letter, so as to make them true. I do this by providing the nation which then

In that way, before he can sue you, the Buyer has to prove not merely that the warranty is breached, but that you knew it was wrong
"Where any Warranty refers to the knowledge, information or belief of the Seller, he undertakes that it has made •••••, ••••••, ••••••••••••••••••••••
Suppose the Seller warrants:
"Neither the Seller nor any of its shareholders has any interest, directly or indirectly, in any
The reply to this warranty above could also be that
Now, finally, let us suppose the warranty had not been in the draft agreement at all. This is what would have happened: I sell to you. My dear old mum steps in and makes the peace between me and my brother and in five minutes I am in there
You may find aspects of my illustration to be immoral. That may be. But I assure you that the World is full of pleasant people who
Warranties - Seller's tactics
The "task" of the Seller is essentially to provide full and truthful information and to avoid being tripped up in the process. The task of the Buyer is to ask for the warranties,

As a Seller, you have a number of ■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■■
• You be the one to produce the draft agreement and remove the • • • • • • • • • • • • • • • • • • •
• When you receive the draft agreement, you must seek the • • • • • • • • • • • • • • • • • • •
• in your draft disclosure letter, which will be sent to the Buyer with your amendments • • • • • • • • • • • • • • • • • • •
• Consider the breadth of each warranty.
• Even where you "answer" the warranty in some • • • • • • • • • • • • • • • • • • •
At all costs avoid the easy way out of leaving the warranties
Warranties - Buyer's response  If you want a fair and satisfactory outcome, use warranties.
However, if your warranties are all "absolute" in matters where it is unreasonable to expect the Seller to
Set out the warranties according to the transaction. Do not include warranties which
,

If the Seller is represented by a attorney, you will have to decide whether this creates an unlevelled playing field.
Some attorneys acting for a Buyer will see the provision of warranties as an opportunity to go back to
Warranties: drafting notes continued
General
The warranties have been widely drawn so that they are likely to cover a Buyer's   , , , , , , , , , , , , , , , , , ,
••••
Accounts
The basis of valuation of the business is
Suppliers and Clients
Of course they have! The purpose of these warranties is
".
Licenses, consents and passwords
In any business which has been operating for more than a few years, ••••••••••••••••••••••••••••••••••••

### This section is particularly important if the Seller is a company. There are circumstances where ............... ......... **Contracts** Particular care should be taken with major contracts which could affect the viability of the business. The Buyer should Intellectual property .............. Internet domain names These are of course an item of intellectual property. We have placed them under a separate heading to

**End of notes** 

Seller's activities