Business transfer agreement: incorporation of a sole trader or partnership to a company

Contents

- 1. Definitions
- 2. Interpretation
- 3. Agreement for Sale
- 4. The Purchase Price
- 5. Items to be delivered at Completion
- 6. Completion
- 7. Stocks and debtors
- 8. Creditors and Liabilities
- 9. Value Added Tax (VAT)
- 10. Future Activities
- 11. Miscellaneous matters

Schedule 1 Fixed Assets

Schedule 2 Excluded Assets

The date of this ag	greement is: [■]
The Seller is:	[name]	
	of [private addr	ress]
and	[second partne	r, if any]
	of [private addr	ress]
	[add more part	ners if required]
	agree that they	more people constitute the Seller, they vare liable jointly and
The Company is:		e] Pty Ltd of [registered address], the Republic ■ ■ ■ ■ ■ ■ ■ ■ ■ ■ , ■ ■ ■ ■ ■].
It is now agreed a	s follows:	
1. Definitio	ns	
So far as the	e context permits	s, the following words
"Accounts"		means the audited profit and loss account of the Business for the year ended [date] and the balance sheet •••••,
		•
"Assets"		means all of the Assets of the Seller
"Business"		means the [type of business] business carried on by the Seller until today under the name and style • • • • • • • • • • • • • • • • • • •
"Confidentia	I Information"	means all information about the Business. It

includes among other things, information about

staff, their personal contact information,

	methods of doing business, future plans, policies, suppliers and customers. It includes
"Contracts"	means current contracts of the Seller in I I I I I I I I I I I I I I I I I I
"Creditors"	means trade creditors and accrued charges in connection with the Business • • • • • • • • • • • • • • • • • •
"Distributor"	means a third party, including sales agents and Internet affiliates and partners, who has contracted to assist in some way
	•••••
"Excluded Assets"	means the Assets listed in Schedule 2 which are owned by the Seller but
"Fixed Assets"	means all plant, machinery, tools, equipment and vehicles owned by the Seller for the ■ ■ ■
	■■■■1.
"Goodwill"	means the goodwill in relation to the ■ ■ ■ , ■
"Price"	means the price • • • • • • • • • • • • • • • • • • •
"Stocks"	means stocks of products, raw materials, work in progress and finished goods, and goods for
"Third Party Software"	means software owned by some

"Web	means www.[URL] and www.[URL]
Inte	rpretation
This a	agreement = = = = = = = = = = = = = = = = = = =
2.1	A reference to a person includes reference to that person's successors, legal representatives,
2.2	[Except where stated otherwise], \blacksquare
2.3	This Agreement and its schedules / attachments are to be taken together so as to give effect to all of
2.4	This agreement is made only in the English language. If there is any
Agre	eement for Sale
3.1	Completion shall take place today, immediately upon exchange of this agreement duly signed

		• • • • • • • • • • • • • • • • • • •	•••		-
	3.1.1	the Business as a going concern;			
	3.1.2	the Goodwill;			
	3.1.3	the Fixed Assets;			
	3.1.4	the Stocks;			
	3.1.5	the Intellectual Property Rights;			
	3.1.6	the Domain Name(s);			
	3.1.7	the Website;			
	3.1.8	rights to use Third Party Software;			
	3.1.9	the benefit of the Contracts;			
	3.1.10	all other Assets • • • • • • • • • • • • • • • • • • •	• • • •		I
	but ex	cluding the Excluded Assets.			
The	Purc	hase Price			
4.1	The P	rice for the business shall \blacksquare \blacksquare \blacksquare \blacksquare \blacksquare		• • • • • • • •	•
	•••	: :	•••	•••••	
	Good	will	R[1	
	Fixed	Assets	R[]	

rights To be ascertained, the Stocks Total price [excluding Stock] R[]

Intellectual Property Rights

Contracts and all other property, Assets and

R[]

Nil

4.2	
4.3	The Price shall be paid as follows upon
	4.3.1 as to R [• • • •], • • • • • • • • / • • • • • • ;
AND	/ OR
	4.3.2 as to R [amount] as a second se
AND	•
	4.3.3 as to fair consideration for the issue of [number] fully
4.4	Value added tax will • • • • • • • • • • • • • • • • • •
	[list property on which VAT payable]
OR	
4.5	The Price
Item	s to be delivered at Completion
The S	Seller shall hand to the Company or otherwise deliver
•••	
5.1	such of the • • • • • • • • • • • • • • • • • • •
5.2	all books of account and VAT records;
5.3	computer programmes • • • • • • • • • • • • • • • • • • •

5.4	all data in electronic form,
5.5	all information and records relating to customers and suppliers, including a list of all
5.6	marketing material in any medium;
5.7	
	[];
5.8	evidence of Contracts and assignments of Contracts;
5.9	;
5.10	;
5.11	
5.12	;
	= = ;
5.13	
5.14	policies of insurance, continuing;
5.15	

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6. Completion

6.1				-	= 1	• •	•	= 1	• •	•	•	-	• ·			•	•	-	■ , ■ •	•	-	-	•	•	•	 -		•
OR																												
6.2	::		 		- I	• •	•		• •	•	•	-	• ·	• •		-	•		■ , ■ •	•	-	-	•	•	•			•
6.3		-	-		•																							
6.4	[14											•																
6.5	::		-		-	• •		•		•			- 1		ı =			-				•						
6.6	 , .			•		 	•			•	•	•				•	•			•	-	•	•	•	-		•	•

7. Stocks and debtors

................................... 7.2 7.3 ----------------7.4 7.5

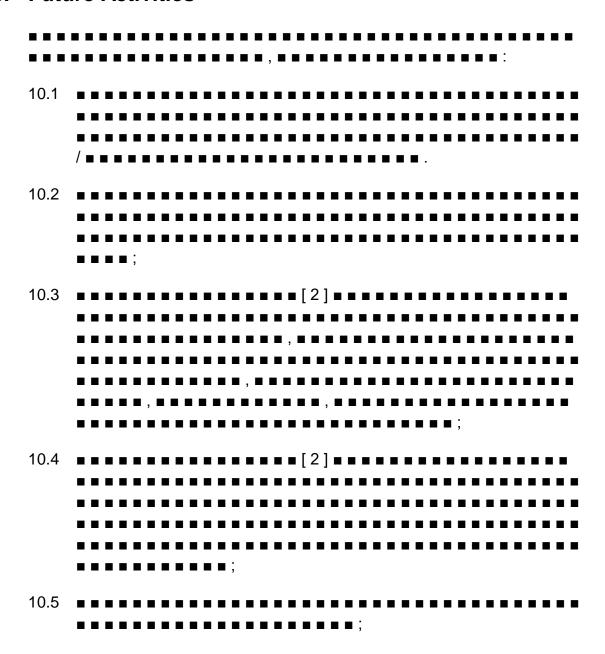
8. Creditors and Liabilities

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	-																														•				
OR																																			
8.3	•		•	_	_	•	_	_	-			•	_			•	-	_		•	•	-	_	_	_	_	-	_			•	•		-	•
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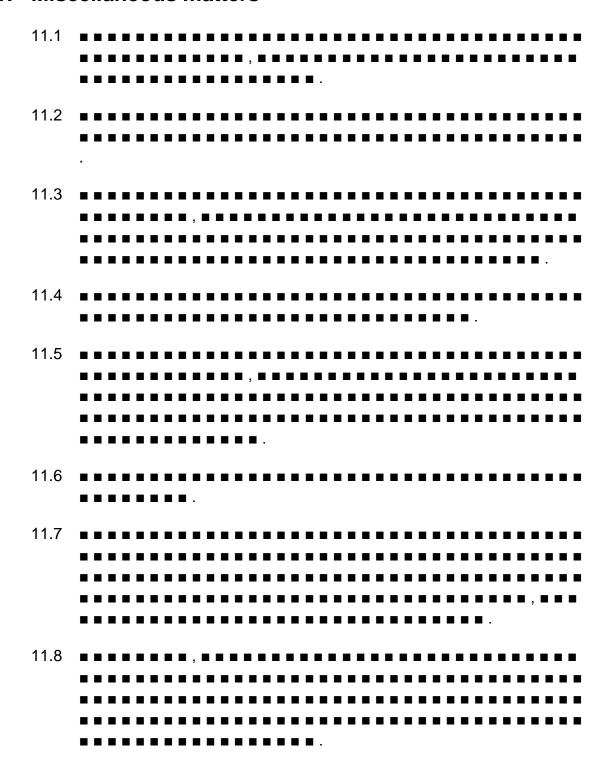
	••••			 	•							
9.4		[6∎∎	■■]	 	•	-	 		 • • •	• •	 	•
	,			 	••			•				

10. Future Activities



10.6	 		 	 	 	-	••		
		 	 	 	 		••		

11. Miscellaneous matters



Signed by [personal name], duly authorized for the Seller
Witness to signature:	
Witnessed by:	[name]
of:	[address]
Signed by [personal name], duly authorized for the Company
Witness to signature:	
Witnessed by:	[name]
of:	[address]

Schedule 1 - Fixed Assets

[list fixed assets]

Schedule 2 - Excluded Assets

[list excluded assets]

Explanatory notes:

Business transfer agreement: incorporation of a sole trader or partnership to a company

General notes:

1.	As we explain briefly in the page from which you bought this document, it has been drawn primarily for an agreement between people who know each other already and where the directors of the company may be associated with the seller. If the deal is absolutely at arms length, you
	Of course, if the parties are close, it may not be necessary to execute the contract in minute detail. If all the documentation is in place,
2.	This document is designed to cover virtually all the eventualities which will be important in a business sale and purchase. But there is little statutory interference in a negotiation of this nature. You may
3.	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 company with a copy of this agreement in final form. Ask for approval of the list.
4.	The company 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
5.	Where a transaction may not be at arm's length, it will attract the attention of South African Revenue Service (SARS). You may be wise to consult your accountant and obtain clearance in advance. This may be particularly important if you plan a sale onwards

Matters relating to numbered paragraphs in the document

	Definitions	
-		

2. Interpretation

Leave these items in place unless there is a good reason to edit or remove. Each of these items has been carefully considered in the context of this agreement and has been included for a purpose. Many of them

3. Agreement for Sale

There may be some overlap in this list:

4. The Purchase Price

This agreement is drawn for use between parties who know each other and where the company buyer is either already connected to the seller or at least has detailed knowledge about the business. Because the relationship may be close, the

- Goodwill
- Fixed assets
- Intellectual property
- Stock for sale or manufacture
- Other categories . . .

You should consult an accountant as to the most favourable apportionments, although the other party will also have a view as to what is or is not acceptable. It

5.	Items to be delivered at Completion
	We have provided a long menu • • • • • • • • • • • • • • • • • • •
6.	Completion
	Strictly speaking, a novation is required with each creditor and debtor. In a normal business sale it would be unusual to go to this extent except for large transactions. Here however, a creditor is losing the security of
7.	Stocks and debtors
	Stocks can be anything, so the agreement is drawn in ■ ■ ■ ■ ■ ■ ■ ■ ■ ■
8.	Creditors and Liabilities
	You can edit to what you
9.	Value Added Tax (VAT)
	Based on the provisions of s11 (1) (= = =) = = = = = = = = = = = ,
	• the parties must • • • • • • • • • • • • • • • • • • •
	;
	• the supplier • • • • • • • • • • • • • • • • • • •

17

	Even if you do not expect the seller to $\blacksquare \blacksquare \blacksquare$
	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.
	•••••
11.	Miscellaneous matters
	Leave all these

End of notes