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## Business sale agreement

**Description:** This is a precedent sale of business agreement, for the transfer of the assets of a business from the vendor to the purchaser.

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## Business sale agreement

### TABLE OF CONTENTS

1.	Interpretation .....
2.	Agreement to sell and buy the B .....
3.	Conditions .....
4.	Conduct pending Completion .....
5.	Completion .....
6.	Employees .....
7.	Employees' superannuation .....
8.	Debtors and creditors .....
9.	Contracts .....
10.	Warranties .....
11.	Restraint .....
12.	Costs and stamp duty .....
13.	Notices .....
14.	General .....
15.	Law and jurisdiction .....
SCHEDULE 1 .....	
SCHEDULE 2 .....	
SCHEDULE 3 .....	
SCHEDULE 4 .....	
SCHEDULE 5 .....	
SCHEDULE 6 .....	
SCHEDULE 7 .....	
SCHEDULE 8 .....	
SCHEDULE 9 .....	
SCHEDULE 10 .....	
SCHEDULE 11 .....	
SCHEDULE 12 .....	
SCHEDULE 13 .....	
SCHEDULE 14 .....	
SCHEDULE 15 .....	

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BUSINESS SALE AGREEMENT made

BETWEEN:

- (1) [insert] of [insert] (**Vendor**); and
- (2) [insert] of [insert] (**Purchaser**).

RECITALS:

- A. The Vendor owns and carries on
- B. The Vendor is the tenant of the P
- C. The Vendor is, or will be on Comp  
interest of the plant, the Stock, the  
Vendor under the Contracts.
- D. The Vendor is the lessee of the L
- E. The Vendor employs the Employee
- F. The Vendor wishes to sell to the P  
the Business as a going concern.

THE PARTIES AGREE AND DECLARE

## 1. Interpretation

### 1.1 Definitions

In this agreement unless the cont

**Asset** means each of the assets  
the Stock, the Intellectual Prop  
goodwill of the Business but exclu

- (a) the Vendor's Debts;
- (b) [insert];
- (c) [insert];

**Business** means [insert] including

**Business Day** means a day on w  
*the full range of banking*] business

**Business Names** means the reg  
2 of Sch 1;

**Completion** means completion o

**Completion Date** means the late

- (a) [insert];
- (b) the day which is [five] Bu  
conditions referred to in cl 3
- (c) any other date which is a  
paras (a) and (b) by the par

**Condition Satisfaction Date** me  
by the parties;

**Contract** means each of:

- (a) the Lease;

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- (b) the Plant Leases;
- (c) the contracts and arrangements for the purchase of any thing which is to be discharged by performance and
- (d) the other contracts and arrangements for the Business and which are specified in the Schedule.

**Corporations Act** means the Corporations Act 2001 (Cth);

**Employee** means each of the persons employed in the details, classification and dates of employment of a person hired as an employee in the Business;

**Government Agency** means a government or governmental or judicial person or body or administration of any applicable law;

**GST Law** means the same as "GST Law" in the GST Act 1999 (Cth);

**Intellectual Property** means the rights in the marks, trade names, designs, patents, trade marks, service marks, and Intellectual Property (whether registered or not and including formulae, recipes and know-how) of the Business; Sch 1;

**IP Rights** means all licences and rights in the patents, trade marks, service marks, and Intellectual Property (whether registered or not and including formulae, recipes and know-how) of the Business;

**Lease** means the lease of the Premises;

**Leased Equipment** means the equipment subject of the Plant Leases;

**Loss or Claim** means, in relation to the Business,

- (a) a damage, loss, cost, expense, or liability;
- (b) a claim, action, proceeding, or dispute, whether or not however arising and whether present or future;

**Plant** means the items of plant, equipment, and fixtures specified in Sch 5;

**Plant Lease** means each of the leases of the Leased Equipment for the Business;

**PPSA** means the Personal Property Securities Act 2009 (Cth);

**PPSR** means the Personal Property Securities Register established under the PPSA;

**Premises** means the property described in the Schedule;

**Purchase Price** means (exclusive of GST),

- (a) the total of the values of the assets of the Business;
- (b) the value of the Stock on hand of the Business;

**Raw Materials** means all materials which are used in the Business for the purpose of fabricating or processing goods, but not those materials which are in a raw or unprocessed state;

- (a) component parts, Raw Materials, and

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- (b) Stock ordered from third party;
- (c) indirect materials used generally in the production of a finished product;

**Security Interest:**

- (a) in relation to any personal property (whether or not it applies), has the same meaning as in the Personal Property Securities Act 2009;
- (b) in relation to any other property, has the same meaning as the performance of obligations;

**Stock** means the Raw Materials, in connection with or as part of the production of a finished product;

**Tax** means any tax, levy, impost, duty, charge or contribution, direct or indirect, (and any related interest, including any interest in land) imposed by any Government Agency;

**Tax Act** means, jointly, the Income Tax Act 1997 (Tax Act) and the Tax Assessment Act 1997 (Tax Assessment Act);

**Terminating Employee** means a person who is no longer employed by the Company;

**Transferring Employee** means a person who is offered employment referred to in clause 1.2.1.1;

**Vendor's Debt** means each Notified Debt;

**Warranty** means each of the warranties set out in clause 1.2.2.1.

**1.2 General**

In this agreement unless the context otherwise requires:

- (a) a reference to any legislative instrument includes a reference to any re-enactment of, or legislative instrument issued under, that legislative instrument;
- (b) the singular includes the plural;
- (c) a reference to an individual includes a reference to an association, authority, trust or other legal entity;
- (d) a reference to any gender includes a reference to any gender;
- (e) a reference to a recital, schedule, annexure or exhibit includes a reference to a recital, schedule, annexure or exhibit;
- (f) a recital, schedule, annexure or exhibit includes a reference to a recital, schedule, annexure or exhibit;
- (g) a reference to any agreement includes a reference to any agreement applicable, any of its provisions, from time to time;
- (h) a reference to any party includes that party's executive officers and assigns;
- (i) where an expression is defined in this agreement, that expression has a corresponding meaning in this agreement;
- (j) a reference to a "subsidiary" includes a reference to a subsidiary in accordance with Pt 1.2.2.1;
- (k) a reference to a "holding company" includes a reference to a holding company in which that body corporate is a subsidiary in accordance with the Corporations Act;
- (l) a reference to a "related body corporate" includes a reference to a related body corporate in accordance with the Corporations Act;

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- (m) where an expression is defined throughout;
- (n) a reference to "dollars" or "dollars";
- (o) a reference to bankruptcy, liquidation, dissolution, becoming an insolvent, or the Corporations Act), being analogous or having a similar meaning under the law of any applicable jurisdiction or events which constitute any such event;
- (p) *[a reference to a matter being done to the best of the knowledge and belief in the circumstances.]*
- (q) words and expressions defined in the Act concerning GST.

### 1.3 Headings

In this agreement headings are to be given their ordinary interpretation.

### 1.4 Confidentiality

Where this agreement provides that a person must not, and must ensure that another person does not, until Completion:

- (a) disclose any of the information;
- (b) use any of the information except:
  - (i) acquire or check transactions contemplated by the agreement;
  - (ii) perform any of its obligations under the agreement or transactions contemplated by the agreement;

unless:

- (c) the person who provides the information;
- (d) the information is disclosed to the other party or to a person whose disclosure is contemplated by it and in the interests of the information:

  - (i) not to disclose any of the information;
  - (ii) only to use the information for the other party or considering the interests of the information;

- (e) the law requires the disclosure;
- (f) the information is available to the public or contravened a confidentiality obligation.

If Completion does not occur or if Completion occurs but the person must ensure that any person who receives the information (in any form in which it is disclosed) must ensure that the obligations imposed by this clause are complied with.

## 2. Agreement to sell and buy the Business

### 2.1 Sale and purchase

Subject to cl 3, the Vendor must sell the Business to the Vendor, the Business (including

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