

SELLING AND BUYING A BUSINESS BASICS

An agreement for the sale of an established business, for example by a Company to another Company, includes a number of matters as identified below and involves a four stage process of:

1. Negotiation of terms.
2. Preparation of Contract.
3. Exchange.
4. Settlement.

Whether selling or buying contract issues such as the following are generally similar:

- Allocation of purchase price, usually in terms of Goodwill and Plant and Equipment.
- Price and when and how to be paid.
- Holding deposit of up to 10% held in trust.
- Sale conditions precedent or subsequent.
- Dealing with counting and hand over of stocks.
- Responsibility for creditors and debtors.
- Charges or Floating charges.
- Seller's warranties.
- Seller's future activities.
- Restraint of trade.
- Transfer/assignment and terms of any lease.
- Transfer of business names.
- Employees and entitlements.
- Special licences required to operate the business.
- Intellectual property, internet addresses, trade marks & manufacturing techniques etc.
- Insurances.
- Property Zoning for any change of use.
- Introduction to key customers and suppliers.
- Settlement period – usually within 30 days, at which time the sale is finalised and full and final payment made.
- Arbitration/Mediation of a dispute before court action.
- Other as required.

These issues, such as buyer due diligence, and others as required particular to the business, are ordinarily advised on during the sale/purchase process.