



What is a “Business Sale & Purchase Agreement”?

Bringing a business for sale transaction to fruition is a trying, lengthy learning venture. You, the buyer, have to try your best to negotiate with the seller in a civil and honest atmosphere. Pleasantness, reasonableness and fairness are needed for the process to proceed smoothly. Once you decide to buy a business, you have to move fast or it might slip through your fingers. You have to signify your serious intention to the owner by formalizing your bid.

Before making a formal offer, you have to determine how much the business for sale is worth. You do not want to pay more than its real value. For this, you have to engage a business appraiser knowledgeable of the market trends for this particular business or industry. A CPA or accountant should also be consulted to examine the proposed transaction from a tax perspective. Going in on your own is not recommended. A lawyer can draft your offer proposal in its entirety or at least review one that you have prepared. Although the former is the better way to go, it is also the more expensive route. However, if you have a verbal agreement with the seller on key issues and you have prepared a draft following available purchase agreement forms or templates, bringing in a lawyer later will cost you less. Remember though to never sign a contract associated with the purchase of a business without first having this reviewed by a lawyer.

The customary business purchase agreement is a legal contract that outlines the details of the sale. This is also known as “purchase contract”, “sale agreement”, “sales purchase agreement”, “sales contract”, “purchase agreement”, or similar term depending on the nature of the sale. The business for sale purchase agreement is a very important legal document. It is the best insurance policy, if carefully crafted, to avoid legal problems from haunting you or the seller in the future. It is a usually lengthy, complicated document with a lot of legalese. It is an agreement between you (the buyer) and the seller. Once signed by both parties, this is a court-accepted document.

The business purchase agreement includes, among other clauses, the following:

- The purchase price and payment structure, particularly the down payment and instalments.
- Assets to be transferred and those not included in the sale. These may be tangible – equipment, stock or inventory; or intangible – goodwill, intellectual property, current clients, contracts of the business, etc.
- Documents, books and records to be handed over to you such as leases, financial statements, tax returns, accounts receivable and payable, contracts with suppliers, customers and employees, articles of incorporation, property deeds, customer and supplier lists among other papers.
- Conditions or contingencies agreed upon including paying off of existing loans, transfer of existing business contracts to the buyer, transfer of employees, and list of existing creditors to be paid off.
- Warranties and liabilities of the seller such as insurance claims, legal proceedings, informal arrangements with 3rd parties like lessors, and any issues with customers or suppliers. Limitations on the seller’s liability may be stated in dollar form or length of time after the closing of the sale. This will assure the buyer that there are no undisclosed problems or potential problem with the business.
- Approximate date for transfer of ownership and possession of the business.
- Time limits for each procedure.
- Non-competition clause – this prevents the seller or vendor from opening or operating a similar business within a geographic area and an agreed upon time period.





- Other terms and conditions of the sale.
- The court that has jurisdiction should there be any dispute.

The business for sale purchase agreement protects the seller and the buyer in the transaction detailing what each agreed to. Lawyers make sure that everything is complete and legal. You should go over this contract carefully with your lawyer, so you understand its legal implications. One other thing you are paying your lawyer for is peace of mind, knowing that you covered all the details.

Have you included the clauses mentioned above in your business purchase agreement?

