

Summary

This style is for use in a purchase of licensed premises, such as a public house, including the business, goodwill, stock and moveable contents associated with such premises. No deposit is envisaged in this style. The style is designed to dovetail with the liquor licensing system introduced by the Licensing (Scotland) Act 2005, which became fully effective on 1 September 2009 following a transitional period during which the outgoing and replacement licensing regimes both operated alongside one another. A significant focus of the style is on the Purchaser's requirement to obtain from the Seller a valid transfer of an existing premises licence by way of an application made to the appropriate local licensing board. A premises licence authorises the sale and supply of alcoholic drinks at licensed premises. The style recognises that the Purchaser may also need to obtain a personal licence on behalf of a suitably qualified employee intended to be engaged by the Purchaser as premises manager at the Property. Partly related to this is the important drafting assumption that the Purchaser does not intend to re-employ any of the Seller's employees at settlement. More generally, the style is drafted from the standpoint of the Purchaser. The Purchaser's due diligence exercise is underpinned by Seller's warranties and suspensive – in preference to resolute – conditions. The suspensive conditions ensure that in order for the transaction to progress to settlement the Purchaser must be satisfied with, among other things, documentation exhibited (particularly the conditions of any existing premises licence), and other information disclosed, to the Purchaser by the Seller or arising from the Purchaser's own investigations. The Purchaser must also be satisfied as to the validity of the title and with the terms of the property enquiry certificate and other reports and audits etc. ordinarily obtained in the context of a purchase of a commercial property. The extensiveness of the Seller's warranties in the style will normally ensure that the Purchaser is well informed on a range of matters affecting the Property – for instance matters concerning licensing of the Property, the physical condition of the Property, and the adoption status of roads and sewers. But even if many, or indeed the majority, of the warranties are ultimately deleted by the Seller, their presence in the style will serve to place the relevant matters on the agenda for the Purchaser's due diligence exercise. To facilitate negotiations various documents, such as assignments of significant interests (e.g. rights arising under construction documentation) and letters of obligation are annexed in the Schedule. In general, the style will need to be modified or adapted in a way that practitioners using the style find to be appropriate to the transaction in hand.

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