



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. 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. The style also assumes that the employment contracts of the employees of the Business will transfer to the Purchaser by operation of law under the Transfer of Undertakings (Protection of Employment) Regulations 2006. Another significant feature of the style is the inclusion of a mechanism for the carrying out of works to be undertaken by the Seller in advance of settlement of the transaction (the assumption being that the cost of the works is reflected in the purchase price). The style assumes that the works are extensive enough to warrant the involvement of a professional team (e.g. as designers of the works), the members of which may be required to grant collateral warranties in favour of the Purchaser. The Seller's Works may also be extensive enough to justify the use of a building contract such as one of the standard forms of building contract published by JCT (Joint Contracts Tribunal). The mechanism relating to the Seller's Works ensures the involvement of the Purchaser in the inspection and approval of the works and the issuing of a practical completion certificate (which is a trigger for settlement of the transaction). The style also makes provision for payment by the purchaser of a deposit on conclusion of missives. 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 and the Business – for instance matters concerning licensing of the Property, the physical condition of the Property, the adoption status of roads and sewers, and issues affecting the employees of the Business and its financial situation. 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.

Contents

1.	Definitions	2
2.	Interpretation	14
3.	Entry	15
4.	Payment of Deposit	15
5.	Payment of Balance [and interest]	16
6.	Determination and payment of Stock Price etc.	18
7.	VAT	19
8.	Capital Goods Scheme	24
9.	Capital allowances	24
10.	Retention	25
11.	Suspensive Condition	26
11.1	Licensing Application	26
11.2	Other licensing and related matters	27
11.3	Business Contracts and Business Records etc.	28
11.4	Other matters	28
11.4.1	Title, boundaries, Consents etc.	28
11.4.2	Reports and audits etc.	28
11.4.3	Funding and board approval	28
11.4.4	Construction Documentation	29
11.5	Purification and termination of the Missives	29
11.6	Longstop Date	29
12.	Licensing Application	30
13.	Business matters	31
14.	Employees	32
15.	Seller's Works – general	34
16.	Seller's Works – Purchaser's right of inspection	36
17.	Seller's Works – matters arising from Purchaser's inspection	37
18.	Seller's Works – practical completion	38

19.	Seller's Works – rectification period	39
20.	Seller's Works – Local Authority certification	40
21.	Seller's Works – Collateral Warranties etc.	40
22.	Seller's Works – compliance with CDM Regulations	40
23.	Seller's Works – minor variations in the Works Specification	42
24.	Restrictive covenant	42
25.	Seller's warranties	43
25.1	Effect of warranties	43
25.2	Ancillary Property and Installations	43
25.3	Minerals	43
25.4	Water and sewerage	44
25.5	Electricity and gas etc.	44
25.6	Roads etc.	44
25.7	Flooding and subsidence	44
25.8	Asbestos etc.	44
25.9	Deleterious Materials etc.	45
25.10	Condition of the Property	45
25.11	Rateable value etc.	45
25.12	Pecuniary burdens	45
25.13	Title conditions and servitudes etc.	46
25.14	Rights of access etc.	46
25.15	Access to Adjoining Property	46
25.16	Common property	47
25.17	Community Interests	47
25.18	Development	47
25.19	Planning agreements	48
25.20	Matrimonial occupancy rights etc.	48
25.21	Antisocial Behaviour etc. (Scotland) Act 2004	48
25.22	Disability discrimination	48

25.23	Environmental Laws	48
25.24	Health and safety	49
25.25	Fire Protection Laws	49
25.26	Consents and permitted use	49
25.27	Statutory Notices etc.	50
25.28	Zoning and listing etc.	50
25.29	Service Contracts	50
25.30	Disputes	51
25.31	Construction Documentation	51
25.32	Licensing matters	52
25.33	Stock	54
25.34	Business	54
25.35	Employees	55
26.	[Domain Name]	57
27.	Rates apportionments etc.	58
28.	Access to the Property etc.	58
29.	Minerals	59
30.	Construction matters	59
31.	[Inventory and] [m][M]aintenance etc. of Ancillary Property etc.	59
32.	Service Contracts etc.	60
33.	Scheduled Repairs	60
34.	Statutory Notices	61
35.	Maintenance, risk and insurance	61
36.	Settlement requirements	63
37.	Cost of searches etc.	69
38.	Default of the Seller	69
39.	Notices	70
40.	Entire agreement	70
41.	Governing law	70

42.	Alienation	70
44.	Right of waiver	71
45.	Supersession	71
46.	Agency	71
47.	Form of acceptance	71
48.	Time limit for acceptance	71
	SCHEDULE PART 1 - ANCILLARY PROPERTY	73
	SCHEDULE PART 2 - ASSIGNATION OF CONSTRUCTION DOCUMENTATION	74
	SCHEDULE PART 3 - ASSIGNATION OF SERVICE CONTRACTS	81
	SCHEDULE PART 4 - BUSINESS CONTRACTS	89
	SCHEDULE PART 5 - CAPITAL ALLOWANCES ELECTION	90
	SCHEDULE PART 6 - COLLATERAL WARRANTIES	92
	SCHEDULE PART 7 - CONSTRUCTION DOCUMENTATION	93
	SCHEDULE PART 8 - EMPLOYEE LIABILITY INFORMATION	94
	SCHEDULE PART 9 - EMPLOYMENT CONTRACTS	98
	SCHEDULE PART 10 - PROFESSIONAL TEAM	99
	SCHEDULE PART 11 - PURIFICATION NOTICE	100
	SCHEDULE PART 12 - SERVICE CONTRACTS	101
	SCHEDULE PART 13 -CAPITAL ITEMS TO WHICH THE CGS APPLIES	102
	SCHEDULE PART 14 - LETTER TO EMPLOYEES TRANSFERRING UNDER TUPE	103
	SCHEDULE PART 15 - UNDERTAKING RELATING TO SELLER'S WORKS	104
	SCHEDULE PART 16 - SIGNATORIES' CERTIFICATE	107
	SCHEDULE PART 17 - LETTER OF OBLIGATION	109