



Example asset sale and purchase agreement (seller's mark-up)

This document is an example of a first draft of a sale and purchase agreement for a high growth tech business which has been marked-up to show the comments and requested changes of the seller.

We have provided this example to give some insight into the matters that may arise when negotiating an agreement for the sale of a tech business. This document is not a template, and is not intended for use as the basis for buying or selling a business.

While many of the provisions in this example sale and purchase agreement will apply to all sale and purchase agreements, each agreement needs to be tailored to reflect the issues and requirements of the relevant target business and of the parties to the transaction. This example agreement does not attempt to cover all of the issues that may arise in respect of an asset sale and purchase. You should not attempt to sell (or buy) a business without legal advice.

Because the target business is a high growth, founder-driven tech business, the following matters are of particular interest to the parties:

- ▲ an earn-out is included. In this case it is calculated based on the revenue of the

business after completion, but the appropriate earn-out criteria (if any) will need to be carefully considered on a case by case basis for any sale and purchase transaction. Here the seller is seeking to impose a number of obligations on the purchaser's operation of the business after completion so that the business is sufficiently resourced and appropriately organised so as to be able to achieve the revenue targets

- ▲ IP warranties are given, but the seller is seeking to limit these to the seller's awareness
- ▲ the shareholders of the seller have been asked to provide the warranties alongside the seller. The shareholders are pushing back on giving those warranties
- ▲ the scope of the non-compete proposed by the Purchaser in respect of the seller and the shareholders of the seller is broad. The seller is seeking to limit that non-compete.

This agreement is based on an imaginary transaction. The parties are fabricated, as are all details in the agreement, including the description of the business being sold.

Seller's comments: 10 June 2016

SIGNED for and on behalf of **WHITE**)
SOFTWARE LIMITED by:)

Signature of authorised signatory

Print full name

SIGNED by **SHAREHOLDER SMITH:**)

Signature

SIGNED by **SHAREHOLDER BROWN:**)

Signature

TERMS OF THIS AGREEMENT

1 INTERPRETATION

1.1 **Definitions:** In this Agreement, unless the context requires otherwise:

Definition	Meaning
Accounts	the statement of financial position, statement of financial performance and statement of cash flows of the Seller for the reporting period ended on the Accounts Date, together with any notes, reports or documents giving information relating to those statements.
Accounts Date	31 March 2016.
Advance Receipts	any payments received by the Seller before Completion in the ordinary course of the Business, where the relevant goods or services have not been supplied or provided as at Completion.
Agreed Terms	in relation to any document, that document in the terms agreed between the parties.
Agreement	this Agreement, including the Schedules.
Assets	the Plant and Equipment, Business Records, Prepayments, Lease, Seller IP, Goodwill and all other assets of the Seller relating to the Business, other than the Excluded Assets.
Authority	includes every minister, department of state, government authority, regional council, territorial authority or other statutory or regulatory authority having jurisdiction or authority to perform or exercise functions or powers.
Bill Rate	in relation to any rate of interest to be calculated pursuant to this Agreement, the mid or "FRA" rate for 90 day bank accepted bills (expressed as a percentage) as quoted on Reuters page BKBM (or any successor page) at or about 10.45 a.m. on the first Business Day of the period in respect of which that rate of interest is to be calculated, and then at intervals of 90 days from that Business Day.
Business	the financial analysis software, research, development, marketing, licensing and sales business of the Seller.

Commented [A1]: As Covenantors, our view is that we cannot control the activities of our associated persons.

Business Day	Monday to Friday, excluding a public holiday within the meaning of section 44 of the Holidays Act 2003 that occurs in Auckland.
Business Premises	all the land and buildings of [<i>insert address of the business premises</i>].
Business Records	all original and copy contracts, books, records, files, reports, accounts, plans, letters, papers, emails and correspondence and any other relevant documents and information relating to or used by the Business but excluding the original statutory books and registers, books of account, financial statements; trading and financial records, and tax returns.
Claim	has the meaning given in clause 11.1.
Completion	completion in accordance with clause 6.
Completion Date	5 p.m. on the later of 15 July 2016 or five Business Days after the Unconditional Date, or such other date as the Seller and the Purchaser may agree.
Completion Statement	the completion statement prepared in accordance with clause 3.4 and Part A of Schedule 2.
Conditions	the conditions set out in clause 4.
Contracts	all contracts, agreements and arrangements entered into by the Seller before Completion in the course of conducting the Business, but excluding the Excluded Contracts.
Default Rate	the Bill Rate plus 6%.
Disclosed Materials	the documents, materials, responses and other information provided to the Purchaser and its agents and advisers in writing by or on behalf of the Seller, in connection with the Purchaser's due diligence investigation of the affairs of the Business and the proposed purchase by the Purchaser of the Assets, as listed in Schedule 5.
Disclosure Letter	the disclosure letter in the Agreed Terms given by the Seller to the Purchaser prior to the Seller signing this Agreement.
Earn-out Accounts	the accounts prepared in accordance with Schedule 3.
Employee Liabilities	the actual liabilities of the Seller, calculated as at the Completion Date, to pay holiday pay and long service leave (if

	any) to those of its employees who accept the Purchaser's offer of employment referred to in clause 9.
Encumbrance	any security interest (as that term is defined in the Personal Property Securities Act 1999) and any other encumbrance and Encumber includes the creation of or agreement to create an Encumbrance.
Excluded Assets	the cash in hand and held in the bank of the Seller and the Trade Debtors.
Excluded Contracts	any insurance contracts.
First Earn-out Payment	the amount of the earn-out payment for the First Earn-out Period, determined in accordance with clause 3.6 and Schedule 3.
First Earn-out Accounts	the Earn-out Accounts for the First Earn-out Period.
First Earn-out Period	the period from and including the day immediately following the Completion Date to, and including, the first anniversary of the Completion Date.
Goodwill	<p>the goodwill of the Business at Completion together with:</p> <ul style="list-style-type: none">▲ the right to carry on the Business in continuation of and in succession to the Seller;▲ the benefit of the Contracts; ▲ the benefit of the Seller's rights or interest in the Licensed IP;▲ all customer and supplier relationships with the Business; and▲ the benefit of any claim or right of the Seller against a third party (including any claim for breach of warranty or representation) arising in the course of the Business and/or relating to any of the Assets.
GST	goods and services tax within the meaning of that term under the GST Act.

GST Act	the Goods and Services Tax Act 1985.
Initial Payment	has the meaning given in clause 3.3a.
Intellectual Property	<p>all industrial and intellectual property rights and interests (whether registered or unregistered and whether capable of protection by registration or not) together with all rights, interests or licences in or to any of those rights, including:</p> <ul style="list-style-type: none">▲ business or trade names;▲ domain names;▲ trade marks, logos, devices, labels and brands;▲ copyright, moral rights and performer rights;▲ trade secrets, know-how and any right to have information kept confidential;▲ passing off and rights to sue under the Fair Trading Act 1986;▲ patents and all other rights conferred under statute, common law or equity in relation to discoveries, inventions, improvements, technical data, formula, computer programs, databases and specifications; and▲ designs together with any design rights and similar rights.
Law	any statute, regulation, by-law, scheme, determination, ordinance, rule or other like provision.
Lease	the lease agreement between [<i>insert name of lessor</i>] and the Seller dated [<i>insert date</i>] of the Business Premises.
Licensed IP	has the meaning set out in paragraph 10.1 of Schedule 4.
Loss	any cost, expense, claim, damage or liability (including reasonable legal expenses on a solicitor own client basis).
Management Accounts	the management accounts of the Seller for period from 1 April 2016 to the Management Accounts Date.
Management Accounts Date	30 June 2016.

Material Contracts	the Contracts listed in Schedule 6.
NZ GAAP	generally accepted accounting practice in New Zealand as defined in section 3 of the Financial Reporting Act 1993.
NZ IFRS	the New Zealand equivalent to International Financial Reporting Standards as approved by the Accounting Standards Review Board from time to time.
Permitted Security Interest	any purchase money security interests (within the meaning of the Personal Property Securities Act 1999) granted by the Seller in the ordinary course of the business.
Plant and Equipment	all fixed and movable plant, equipment, machinery, computer hardware, tools, dies, spare parts, furniture, fixtures, fittings and motor vehicles owned by the Seller or used in connection with the Business.
Prepayments	all deposits and payments made by the Seller up to Completion in the ordinary course of the Business for products or services to be supplied or provided to the Seller after Completion.
Proceeding	prosecution, litigation, arbitration or other complaint or dispute resolution proceeding.
Purchase Price	the purchase price calculated in accordance with clause 3.
Related Company	has the meaning given in section 2(3) of the Companies Act 1993 (read as if the expression <i>company</i> in that subsection includes any body corporate of any jurisdiction).
Revenue	the revenue of the Business, calculated in accordance with Schedule 3.
Second Earn-out Payment	the amount of the earn-out payment for the Second Earn-out Period, determined in accordance with clause 3.6 and Schedule 3.
Second Earn-out Accounts	the Earn-out Accounts for the Second Earn-out Period.
Second Earn-out Period	the period from and including the day immediately following the first anniversary of the Completion Date to, and including, the second anniversary of the Completion Date.

Seller IP	all Intellectual Property owned or otherwise held by the Seller including: <ul style="list-style-type: none">▲ the financial analysis software of the Seller; and▲ the Intellectual Property detailed in Schedule 1.
Specified Liabilities	the: <ul style="list-style-type: none">▲ outgoings apportioned to the Purchaser under clause 6.7;▲ liabilities under the Contracts assumed by the Purchaser under clause 8 together with any obligations to which the Advance Receipts relate; and▲ Employee Liabilities.
Trade Debtors	the book and other debts owing to the Seller at Completion for goods or services provided by the Seller in the ordinary course of the Business up to Completion.
Transferring Employees	the employees of the Seller at the date on which offers of employment are made in accordance with clause 9.1.
Unconditional Date	the first Business Day on or by which all Conditions have been fulfilled (or waived in accordance with clause 4.3).
Warranties	the warranties given by the Warrantor to the Purchaser as set out in Schedule 4.
Warrantor	the Seller.

1.1 Interpretation:

- a A reference to:
 - i a **clause** or a **Schedule** is to a clause in or a schedule to this Agreement;
 - ii a **person** includes a body corporate, an association of persons (whether corporate or not), a trust, governmental or other regulatory body, authority or entity, in each case whether or not having a separate legal personality;
 - iii **including** and similar words do not imply any limitation;
 - iv a **statute** includes references to that statute as amended or replaced from time to time;

Commented [A2]: We (as Covenantors) are not prepared to give these Warranties personally. These will be given by the Seller. The Purchaser has the ability to set-off any claim under the Warranties against the earn-out payments, and our view is that this should provide sufficient comfort for the Purchaser for any warranty claims.

- v a **party** is a reference to a party to this Agreement, and includes that party's permitted successors and permitted assigns; and
- vi **\$** or **dollars** are to New Zealand currency.
- b The **headings** in this Agreement are for convenience only and have no legal effect.
- c The **singular** includes the plural and vice versa.
- d Expressions used in connection with financial calculations, valuations, accounting or financial reporting functions or their description in this Agreement bear the respective meanings given to like expressions or expressions to similar intent under NZ GAAP or NZ IFRS (as applicable).
- e Time is of the essence, and references to time are to New Zealand time.
- f An agreement, representation or warranty given or entered into by two or more persons is given or entered into and binds them **severally** and not **jointly**.

2 SALE AND PURCHASE

- 2.1 **Sale and purchase:** On Completion, the Seller will sell and transfer, and the Purchaser will purchase and take, the Business and the Assets free of all Encumbrances (other than Permitted Security Interests) and otherwise on the terms and conditions of this Agreement.
- 2.2 **Specified Liabilities:** From Completion, the Purchaser will assume and perform all obligations of the Seller in respect of the Specified Liabilities and indemnifies the Seller from and against all Loss suffered or incurred by the Seller arising out of or as a consequence of the Purchaser's failure to perform those obligations.
- 2.3 **No other liabilities assumed:** Other than as expressly set out in this Agreement, the Purchaser does not assume, and the Seller indemnifies, the Purchaser from and against, any liabilities of the Seller in relation to the Business or the Assets prior to Completion.
- 2.4 **Excluded Assets not sold:** The Seller does not sell and the Purchaser obtains no rights in the Excluded Assets.

3 PURCHASE PRICE

- 3.1 **The Purchase Price:** The Purchase Price for the Business and Assets is the aggregate of:
 - a the Initial Payment; plus/less
 - b the amount of any adjustment to the Purchase Price calculated following the final agreement or determination of the Completion Statement in accordance with clause 3.5; plus

- c the amount of the First Earn-out Payment and the amount of the Second Earn-out Payment; less
 - d the amount of the Advance Receipts and the amount of the Employee Liabilities, as shown in the Completion Statement.
- 3.2 **The Purchase Price:** The Purchase Price will be allocated as follows:
- a for the Lease and the Business Records, the sum of \$[100,000];
 - b for the Seller IP, \$[8,000,000];
 - c for Plant and Equipment and Prepayments, an amount equal to the aggregate value of each such item shown in the Completion Statement determined in accordance with Part A of Schedule 2; and
 - d for Goodwill, the Purchase Price less the sum of the amounts in clauses 3.2a to 3.2c.
- 3.3 **Payment of Purchase Price:** The Purchaser will pay the Purchase Price to the Seller as follows:
- a subject to the Seller's compliance with clause 6.1, the Purchaser will pay to the Seller the aggregate sum of \$9,500,000 on the Completion Date (**Initial Payment**);
 - b the Purchaser will make any payment to be made by the Purchaser to the Seller in accordance with clause 3.5 on the date specified in clause 3.5; and
 - c the Purchaser will make the First Earn-out Payment and the Second Earn-out Payment, in accordance with clause 3.6 and Schedule 3.
- 3.4 **Completion Statement to be prepared in accordance with Schedule 2:** The provisions of Schedule 2 will apply to the preparation and agreement or determination of the Completion Statement.
- 3.5 **Adjustments:** Within five Business Days of the date of the final agreement or determination of the Completion Statement in accordance with paragraph 6 of Part A of Schedule 2, the difference obtained by deducting the Initial Payment from the aggregate net value of the items contained in the Completion Statement will:
- a if the difference is positive (i.e. an excess, greater than zero), be paid by the Purchaser to the Seller; or
 - b if the difference is negative (i.e. a shortfall, less than zero), be paid by the Seller to the Purchaser.
- 3.6 **Amount of earn-out payments:** If the Revenue for:

Commented [A3]: We are obtaining tax advice on these allocations and their tax effect on the Seller.

Commented [A4]: The headline purchase price is \$10.5m. We are confident that the Completion Statement adjustments are unlikely to exceed \$1,000,000, so there is no need to withhold \$2,000,000 on Completion.

- a the First Earn-out Period as determined in accordance with Schedule 3 is not less than \$3,000,000, the First Earn-out Payment will be \$2,500,000; and
- b the Second Earn-out Period as determined in accordance with Schedule 3 is not less than \$3,500,000, the Second Earn-out Payment will be \$2,500,000,

and the Purchaser will also pay to the Seller at the time of any payment under this clause simple interest on the amount of that payment calculated on a daily basis at the Bill Rate plus 4% per annum for the period from Completion to (and including) the date of payment.

3.7 **Calculation of earn-out payments:** The procedures and other terms for determining and making the First Earn-out Payment and the Second Earn-out Payment are set out in Schedule 3.

3.8 **Deductions from earn-out payments:** The Purchaser may deduct from the First Earn-out Payment and/or the Second Earn-out Payment an amount equal to the amount of any Claim which is due for payment and has not been settled in full by the Seller at the time that the First Earn-out Payment or Second Earn-out Payment (as applicable) is due to be paid.

3.9 **Earn-out payments accelerate on an Exit Transaction:** If an Exit Transaction occurs:

- a before the end of the First Earn-out Period, the Purchaser must pay to the Seller \$5,000,000; or
- b before the end of the Second Earn-out Period, the Purchaser must pay to the Seller \$2,500,000 (in addition to the First Earn-out Payment),

and that amount will be payable no later than five Business Days from the date the Exit Transaction is completed. For the purposes of this clause 3.9, an **Exit Transaction** occurs if:

- a the Purchaser enters into a listing agreement with the New Zealand Stock Exchange, or other national stock exchange of similar or better standing;
- b a shareholder (or shareholders) of the Purchaser enters into a binding agreement with a third party (or a group of associated third parties) under which the third party is to acquire 50% or more of the shares of the Purchaser, and that agreement becomes unconditional;
- c the Purchaser enters into a binding agreement to dispose of assets used in the Business comprising more than half the value of the assets used in the Business, and that agreement becomes unconditional; or
- d the Purchaser resolves to amalgamate with any other company (whether or not it is the continuing company), in a transaction that is in substance the same as those in clauses 3.9b or 3.9c above.

Commented [A5]: If part of the earn-out payable to us is to be withheld due to a Claim having been made, it is not sufficient for notice of a Claim to have been given; that Claim must also be proven or agreed and payable.

4 CONDITIONS

4.1 **Conditions:** Completion is conditional on:

- a the shareholders of the Seller approving the acquisition of the Business and Assets in accordance with this Agreement;
- b the Purchaser receiving, on terms reasonably acceptable to the Purchaser, the consent of the landlord of the Business Premises to the assignment on Completion of the Lease; and
- c the Purchaser receiving, on terms reasonably acceptable to the Purchaser, consents to assign each Material Contract duly executed by the counterparty to each Material Contract.

4.2 **Fulfilment of Conditions:** In order to fulfil the Conditions, each of the Seller and the Purchaser will:

- a use all reasonable endeavours, and co-operate with the other;
- b do all acts, matters and things within its power and control; and
- c provide such information as may be required,

to cause the Conditions to be satisfied, provided that this clause 4.2 will not require a party to pay any money (other than normal fees, costs and charges of professional advisers) or incur any material liability in order to satisfy the Conditions.

4.3 **Waiver:** The Conditions in clauses 4.1a to 4.1c (inclusive) have been inserted for the benefit of both the Seller and the Purchaser and may only be waived by agreement between them. Any waived conditions will be deemed to be fulfilled.

4.4 **Notification of other parties:** The Seller and the Purchaser will each notify the other promptly upon becoming aware that any of the Conditions have been satisfied.

4.5 **Effect of failure of Conditions:** If the Conditions are not satisfied (or waived in accordance with clause 4.3) by 5 p.m. on the date which is 30 days after the date of this Agreement or a later date agreed in writing by the parties, either the Purchaser or the Seller may (if the party wishing to terminate has complied with its obligations under clause 4.2) terminate this Agreement at any time by notice in writing to the other party and no party will have any claim against any other party arising under or in connection with that termination other than for a breach of this Agreement occurring before termination.

5 PRE-COMPLETION OBLIGATIONS

- 5.1 **Positive obligations of the Seller:** From the date of this Agreement until Completion or the failure of the Conditions (whichever will be the first to occur), the Seller must (except with the prior written consent of the Purchaser):
- a operate and conduct the Business in the normal course of business and in substantially the same manner as it has done to date;
 - b from the Unconditional Date, permit the Purchaser, at reasonable times during normal business hours, reasonable access to the Business and the Transferring Employees solely for the purpose of planning for the transition of ownership of the Business to the Purchaser; and
 - c promptly notify the Purchaser in writing of any law suits, claims, Proceedings (other than normal debt collection proceedings) or investigations which may occur, be threatened, brought, asserted or commenced against it, its directors or employees, involving or affecting the Business or the Assets.
- 5.2 **Restrictions on the Seller:** From the date of this Agreement until Completion or the failure of the Conditions (whichever is the first to occur), the Seller must not (except with the prior written consent of the Purchaser):
- a alter any of the conditions of employment of the Transferring Employees other than changes consistent with the normal business practices employed by the Seller as at the date of this Agreement or employ any person in the Business at an annual base remuneration level in excess of \$100,000 per annum;
 - b acquire any capital asset where the value of that asset exceeds \$50,000;
 - c dispose of (or enter into any commitment to dispose of) any Assets, except in the ordinary course of the Business on arms length terms; or
 - d further Encumber any of the Assets.
- 5.3 **Obligation to notify:** If, prior to Completion the Seller becomes aware of any fact which:
- a has had a material and adverse effect on the Assets or the Business;
 - b constitutes a material breach of any Warranty; or
 - c entitles the Purchaser to exercise its rights of cancellation under clause 6.2,
- the Seller must promptly give notice to the Purchaser of that fact and the circumstances giving rise to it.

- 5.4 **Permitted acts:** From the date of this Agreement until Completion, the Seller may, despite clauses 5.1 and 5.2, do or omit to do anything that the Seller in its sole discretion considers appropriate or necessary in relation to the Assets or the Business which:
- a is a reasonable response to an existing or pending emergency or disaster;
 - b is necessary to meet its legal or contractual obligations; or
 - c involves the expiry of any Contract or the termination of any Contract by a counterparty to that agreement.

5.5

- 5.6 **Cancellation rights:** The Seller or the Purchaser may cancel this Agreement at any time before Completion by notice in writing to the other without liability of any kind if:

- a an order is made or an effective resolution is passed for the winding up or dissolution without winding up (otherwise than for the purposes of reconstruction or amalgamation) of the other party;
- b a receiver, receiver and manager, judicial manager, liquidator, statutory manager, administrator or like official is appointed over the whole or a substantial part of the undertaking or property of the other party; or
- c a holder of an Encumbrance takes possession of the whole or any substantial part of the undertaking and property of the other party.

6 COMPLETION

- 6.1 **Seller's obligations on Completion:** On the Completion Date, the Seller will deliver to the Purchaser:

- a possession and control of the Business, including possession of the Business Premises and possession of the Assets, the unencumbered title to which will pass to the Purchaser on delivery;
- b the Business Records;
- c an executed deed of assignment in the Agreed Terms, assigning the Lease to the Purchaser;
- d executed assignments of all the rights which the Seller may have under, and against the other party or parties to, or consents to assignment of, the Material Contracts, each in the Agreed Terms;

Commented [A6]: As Sellers, we do not expect the Purchaser to have the ability to cancel the transaction for a material adverse change in the Business. Once the Agreement is signed, we expect to proceed on the basis that both parties are committed to the transaction, unless one of the Conditions cannot be satisfied or clause 5.6 applies.

- e a certified copy of a resolution of the directors of the Seller in the Agreed Terms changing the name of the Seller to some other name not including the words "*White Software*";
 - f a duly executed deed of assignment in the Agreed Terms of all registered patents and trade marks forming part of the Seller IP;
 - g duly executed releases in the Agreed Terms of all Security Interests (as defined in the Personal Property Securities Act 1999) in or over the Assets (other than any Permitted Security Interests), together with the secured party's undertaking to register a financing change statement on the Personal Property Securities Register discharging the relevant Assets from its security interest within a reasonable period after Completion (in each case in writing);
 - h all documents of title to the Assets, together with all executed transfers and assignments necessary to vest legal title to the Assets in the Purchaser and evidence satisfactory to the Purchaser that sole title to the Business and the Assets will vest in the Purchaser, free from any Encumbrances;
 - i employment agreements in the Agreed Terms executed by [*insert names of key employees*]; and
 - j all other documents and things reasonably requested by the Purchaser to transfer ownership of the Assets and the Business to the Purchaser in accordance with the terms of this Agreement and to place the Purchaser in control of the Assets and the Business.
- 6.2 **Seller's failure to comply:** If any of the provisions of clause 6.1 are not complied with on or before the Completion Date the Purchaser may at its option and without prejudice to its rights under this Agreement or otherwise:
- a defer Completion to a date not more than 20 Business Days after the Completion Date;
 - b proceed to Completion as far as practicable;
 - c sue the Seller for specific performance;
 - d cancel this Agreement by notice in writing to the Seller without liability of any kind; and/or
 - e sue the Seller for damages.
- 6.3 **Purchaser's obligations on Completion:** On the Completion Date and subject to the Seller complying with its obligations under clause 6.1, the Purchaser will:
- a pay \$9,500,000 in same day cleared funds into the nominated account of the Seller; and

- b deliver to the Seller:
 - i a counterpart of the Lease assignment, duly executed by the Purchaser;
 - ii a counterpart of the deed of assignment referred to in clause 6.1f, duly executed by the Purchaser; and
 - iii employment agreements in the Agreed Terms for each of *[insert names of key employees]* duly executed by the Purchaser.
- 6.4 **Deemed delivery:** Where the Seller and the Purchaser agree that delivery to the Purchaser of an item at Completion is impractical or inconvenient, the requirement for delivery may with the Purchaser's agreement be satisfied by the Seller placing that item under the control of the Purchaser.
- 6.5 **Interdependence:** In respect of Completion:
 - a Completion is deemed to have occurred when each party has performed all of its obligations under this clause 6; and
 - b all actions required to be performed will be taken to have occurred simultaneously on the Completion Date.
- 6.6 **Possession and risk:** Possession and control of the Business, the Assets and the Business Premises will be given and taken on Completion and the Business, the Assets and the Business Premises will remain at the sole risk of the Seller until possession is so given and taken.
- 6.7 **Apportionments:** All rent, rates, power, telephone, water and other outgoings of a periodic or recurring nature (excluding insurance premiums) and all incomings of a periodic or recurring nature, which are not otherwise taken into account in calculating the Purchase Price will be apportioned as at Completion between the Seller and the Purchaser and, to the extent known, included in the Completion Statement.
- 6.8 **Utilities:** The Seller will co-operate with the Purchaser to assist with the transfer to the Purchaser, from Completion, of telephone, power, water and gas reticulation services (if any) for the Business Premises. If a transfer of any such service is not effected by Completion, the Purchaser will promptly reimburse the Seller for the cost of the Purchaser's use of that service from Completion until the service is transferred to the Purchaser's account.

7 POST-COMPLETION OBLIGATIONS

- 7.1 **Seller's obligations:** From the Completion Date, the Seller must not, directly or indirectly:
 - a knowingly use or knowingly permit any other person to use any name, brand or trade mark the same or similar to the name, brand or trade mark "*White Software*", or any

other name, brand or trade mark the same or similar to any name, brand or trade mark used by the Seller prior to the Completion Date; or

- b make use of or disclose any Seller IP.
- 7.2 **Change of name:** Promptly following Completion, the Seller will procure the change of its name to some other name that does not include the words "*White Software*" or any similar words.
- 7.3 **Seller to provide information:** Following Completion, the Seller will permit the Purchaser to have access to the Business Records which the Seller is required by Law to retain in its possession and to take copies of them for the purpose of conducting the Business or complying with other statutory obligations of the Purchaser relating to the Business. The Seller is entitled to payment or reimbursement by the Purchaser of expenses reasonably incurred by the Seller in complying with any request of the Purchaser under this clause.
- 7.4 **Purchaser to provide information:** Following Completion, the Purchaser will permit the Seller to access the Business Records as is reasonably necessary to enable the Seller to complete taxation returns, and to comply with any other statutory obligations of the Seller relating to the Business. The Purchaser is entitled to payment or reimbursement by the Seller of expenses reasonably incurred by the Purchaser in complying with any request of the Seller under this clause.

8 ASSIGNMENT ARRANGEMENTS

- 8.1 **General:** The Seller assigns to the Purchaser with effect from Completion all of its rights under the Contracts as are capable of transfer without the consent of any other party or for which consent has been obtained. The parties will use all reasonable endeavours to obtain, prior to Completion but with effect from Completion, all consents necessary to transfer the Seller's rights under any Contracts not assigned at Completion, and its obligations arising from Completion under all Contracts, to the Purchaser. Upon such consents being obtained, the Seller will transfer the relevant Contracts, or the rights and obligations under those Contracts for which consent is obtained, to the Purchaser with effect from Completion or such later date for transfer for which consent is given. The Purchaser will promptly provide the Seller with any and all information and documentation that the Seller requests in order to obtain all necessary consents for the lawful assignment of the Contracts from the Seller to the Purchaser.
- 8.2 **Hold on trust:** Any Contract that is not effectively transferred to the Purchaser, whether because of the delay or refusal of any other person to provide any necessary consent or otherwise, will be held by the Seller on trust for, and at the direction of, the Purchaser as from Completion on the following basis:
- a the Seller will account to the Purchaser for the goods and/or services or moneys received in respect of that Contract;

- b the Seller will subcontract to the Purchaser the performance of that Contract upon the terms of the Contract if the Contract does not expressly prohibit subcontracting;
 - c nothing in this Agreement will constitute an assignment or attempted assignment if an assignment or attempted assignment would constitute a breach of that Contract;
 - d the Purchaser will reimburse the Seller on demand in respect of all costs incurred by it in connection with the performance of its obligations under this clause;
 - e unless and until the Contract is assigned, the Seller must take all actions as the Purchaser may reasonably require to provide the Purchaser with the benefit of that Contract; and
 - f the parties will use all reasonable endeavours following Completion to procure the assignment of that Contract as soon as practicable.
- 8.3 **Performance of Contracts:** The Purchaser will, at the Purchaser's cost, carry out and complete for its own account the Contracts to the extent that they have not been performed before Completion.
- 8.4 **Seller IP:** On Completion, the Seller:
- a absolutely and irrevocably assigns, sells, transfers and conveys to the Purchaser, as beneficial and legal owner, the Seller IP and all the estate, right title, interest, benefit, property, claim and demand of the Seller in the Seller IP and all of its rights, remedies and powers in respect of the Seller IP, including the right to sue and bring proceedings against any third party for infringement of any rights in the Seller IP (whether that infringement occurred prior to this assignment or otherwise); and
 - b if requested by the Purchaser, must enter into any deed of assignment of Intellectual Property or other document or do any other thing to give effect to clause 8.4a.

9 EMPLOYEES

- 9.1 **Offer of new employment:** The Purchaser must make a written offer of employment with the Purchaser as the employer, commencing on the Completion Date and conditional upon Completion, to each of the Transferring Employees. The offer of employment to each Transferring Employee will be on no less favourable terms than the existing terms of the Transferring Employee's employment and will include a waiver in favour of the Seller of the requisite notice period (or payment in lieu of notice) and a waiver of any right to payment or compensation for redundancy or loss of office in connection with the cessation of the employee's employment with the Seller. The Purchaser's offer will confirm that each Transferring Employee's length of service will be treated as continuous for the purposes of determining leave and other service-related entitlements. The Purchaser's offer of employment will be on terms approved by the Seller (acting reasonably).

- 9.2 **Parties' obligations:** Each of the Seller and Purchaser will use its respective reasonable endeavours to persuade the Transferring Employees to accept the offer of employment by the Purchaser.
- 9.3 **Termination of employment:** The Seller, to enable the offers referred to in clause 9.1 to be accepted, must terminate the employment of each of the Transferring Employees by notice in writing with effect from the Completion Date and conditional upon Completion. The Seller's notice of termination will be on terms approved by the Purchaser (acting reasonably).
- 9.4 **Termination and offer to be delivered at the same time:** The Seller's notice and the Purchaser's offer referred to above must be delivered together to each of the Transferring Employees as soon as is practical after the Unconditional Date.
- 9.5 **Employee Liabilities:** From the Completion Date, the Purchaser:
- a assumes the liability to pay the Employee Liabilities or, where any Employee Liabilities are paid by the Seller, to reimburse the Seller for those liabilities; and
 - b indemnifies the Seller against those liabilities on a continuing basis.
- 9.6 **Seller's obligations:** Subject to the Purchaser complying with its obligations under clause 9.1, the Seller will pay:
- a all liability for wages in lieu of notice, redundancy compensation, compensation for unjustifiable dismissal payable or becoming payable to any Transferring Employee in consequence of that employee's employment being terminated by the Seller; and
 - b all liability arising as a direct consequence of any breach by the Seller occurring on or before the Completion Date of any employment agreement between the Seller and any of its employees.
- 9.7 **Indemnity:** Each party indemnifies and keeps indemnified the others against all Loss incurred by because of any breach by the indemnifying party of its obligations under this clause 9.
- 9.8 **No third party beneficiaries:** Nothing in this clause 9 creates any third party beneficiary rights in any employee or former employee of the Seller in respect of continued or new employment, or in respect of any benefits that may be provided under any employee plan or benefit arrangement established by either the Seller or the Purchaser.

10 WARRANTOR'S WARRANTIES

- 10.1 **General:** The Warrantor warrants to the Purchaser that each of the Warranties is at the date of this Agreement true, accurate and not misleading.
- 10.2 **Acknowledgement:** The Warrantor acknowledges that the Purchaser has entered into this Agreement in reliance on the Warranties.

Commented [A7]: We do not want the Warranties to be repeated at Completion, as the Seller cannot say what may happen in that period as at the date of the signing of this Agreement.

10.3 **Application of Warranties:** Each of the Warranties is to be treated as a separate warranty.

10.4

10.5

Commented [A8]: As Sellers, we do not agree that the Purchaser should be able to terminate the agreement for a breach of warranty after signing. The Purchaser could bring a claim for a breach of warranty in the usual manner.

11 MATTERS RELATING TO CLAIMS

11.1 **Warranties qualified:** The Purchaser will not be entitled to claim against the Warrantor under the Warranties (a **Claim**) in respect of:

- a any matter fairly disclosed in the Disclosure Letter;
- b any matter done or omitted to be done after the execution of this Agreement with the prior written consent of the Purchaser;
- c any matter which should have been apparent from the Disclosed Materials to an appropriately qualified person undertaking a review of those materials, whether or not the Purchaser or its advisers were appropriately qualified to undertake that review; or
- d any matter or circumstance recorded in a public register maintained by any of the following on the Business Day immediately prior to the date of this Agreement:
 - i Land Information New Zealand;
 - ii the Ministry of Business, Innovation and Employment (but limited to the Personal Properties Security Register and the registers maintained by the New Zealand Companies Office and the Intellectual Property Office of New Zealand);
 - iii the High Court of New Zealand, the Court of Appeal of New Zealand and the Supreme Court of New Zealand; or
 - iv Domainz (but limited to the domain names registers maintained by the parties).

11.2 **Limits on Claims:** The Warrantor will have no obligation to the Purchaser for any Claim:

- a unless written notice of the Claim, setting out full particulars of the grounds on which it is based together with the Purchaser's estimate of the amount of that Claim is given to the Warrantor within 12 months of the Completion Date and within 30 Business Days of the Purchaser becoming aware of the fact or circumstance giving rise to the Claim;
- b unless the Loss to the Purchaser in respect of that Claim is in excess of \$20,000;
- c unless the aggregate amount of all Claims exceeds \$200,000 but, for the avoidance of doubt, if that amount is exceeded, the Warrantor's liability will be for the total amount of the Claims and will not be limited to the excess over \$200,000; and
- d if and to the extent that:

- i the Loss suffered or incurred by the Purchaser has been made good or otherwise compensated for without cost to the Purchaser;
- ii provision is made in the Completion Statement or Accounts for the matter which would otherwise give rise to that Claim; or
- iii the Purchaser is entitled to recover the amount of that Claim under a policy of insurance.

11.3 **Maximum liability:** The maximum aggregate liability of the Warrantor for Claims will be limited to 50% of the Purchase Price.

11.4 **No double recovery:** The Purchaser will not be entitled to recover more than once for any fact, matter, event or circumstance giving rise to a Claim.

11.5 **Third party Claims:** If a matter which could give rise to a Claim is a matter which also:

- a gives rise to a claim or potential claim by the Purchaser against a third party, then the Purchaser will take all appropriate steps to pursue that claim against the third party before bringing any Claim in respect of that matter against the Warrantor; or
- b results from a claim or potential claim against the Purchaser by a third party, then the Purchaser will defend that claim made against it using all reasonable endeavours,

and in either case the Purchaser will, promptly after it becomes aware of that matter, notify the Warrantor of any potential claims against or by third parties and provide any details of the potential claim that are available to the Purchaser.

11.6 **Mitigation:** The Purchaser must in relation to any loss or liability which might give rise to a Claim against the Warrantor take all reasonable steps to avoid or mitigate that loss or liability.

11.7 **No Claim:** The Purchaser warrants to the Warrantor that neither the Purchaser nor any of its employees, agents or advisers has knowledge of any fact or matter which would or may constitute a breach of any Warranty or otherwise give rise to any liability of the Warrantor under this Agreement.

11.8 **Purchaser to retain information:** The Purchaser will retain all information relating to the Business which in its reasonable opinion may be relevant to any Claim for the period within which that Claim may be brought under this Agreement, and after that for as long as any actual or prospective Claim remains outstanding.

11.9 **Warrantor's obligations:** The Warrantor undertakes not to make any claim against any of the employees of the Business (**Protected Party**) in respect of a misrepresentation, inaccuracy or omission in or from information or advice provided by the Protected Party for the purpose of assisting the Warrantor to give the Warranties or otherwise in connection with the sale of the Business or this Agreement. The undertaking contained in this clause is given for

Commented [A9]: We understand that it is customary for sellers to cap this liability at a percentage of the total purchase price.

the benefit of each Protected Party and is intended to be enforceable against the Warrantor by any Protected Party under the Contracts (Privity) Act 1982.

11.10 **When limitations on Claims not applicable:** The limitations on Claims set out in this clause 11 will not apply to any Claim which arises as a result of or is connected to fraud.

11.11 **Reduction of Purchase Price:** Any monetary compensation received by the Purchaser as a result of any breach of any Warranty given by the Warrantor under clauses 10.1 or 12 is to be in reduction and refund of the Purchase Price.

11.12 **No right to cancel:** Except as set out in clauses 5.6 and 6.2, the Purchaser has no right to cancel this Agreement (whether before or after Completion) as a result of any matter, information or circumstance, including for misrepresentation, repudiation, anticipatory breach or breach in respect of any matter giving rise to or the subject of a Claim, and sections 6 to 10 of the Contractual Remedies Act 1979 do not apply.

12 MUTUAL WARRANTIES

Each party warrants to the other parties that:

- a in the case of a party which is a company, it is duly incorporated and validly existing under the Laws of New Zealand;
- b it has full power and capacity to execute, deliver, and perform its obligations under, this Agreement;
- c the execution, delivery and performance of this Agreement:
 - i has been duly authorised by all necessary action; and
 - ii will not breach the terms and conditions of, or constitute a default under, any other agreement, constitution, undertaking or arrangement to which it is a party or bound, or breach any Law applicable to it or by which it is bound; and
- d this Agreement constitutes legal, valid and binding obligations on that party, enforceable in accordance with its terms.

13 DEFAULT

If the Purchaser fails to pay to the Seller any part of the amount owing in accordance with this Agreement by the due date then the Purchaser will, in addition to any other right or remedy of the Seller, pay to the Seller interest at the Default Rate on the unpaid amount until the date of payment in full.

14 LOWEST PRICE

Lowest price: For the purposes of the financial arrangement rules in the New Zealand Income Tax Act 2007, the parties agree that (after taking into account the liabilities expressly assumed by the Purchaser under this Agreement):

- a the Purchase Price is the lowest price they would have agreed for the sale and purchase of the Assets and the Business on the date this Agreement was entered into, if payment would have been required in full at the time the first right in the contracted property (being the Assets and the Business) was transferred;
- b the Purchase Price is the value of the Assets and the Business; and
- c should the Commissioner of Inland Revenue in New Zealand assess that any of the Assets has a market value greater than that attributed to an Asset as detailed in clause 3.1 the value of that Asset will be the assessed market value and the value of Goodwill as described in clause 3.2d will be reduced accordingly.

15 NON-COMPETITION

15.1 **Seller's and Covenantors' restraint:** Subject to clause 15.2, the Seller and each of the Covenantors agrees and undertakes, that it will not, in New Zealand, Australia or the United States of America, directly or indirectly and whether on its own account or as a shareholder in, or as an owner, trustee, broker, employee, agent, partner of, or as a consultant or adviser to or for, any person, firm, corporation, association, trust or other entity, or otherwise:

- a engage in, conduct, carry on or be interested in any business competing directly with the Business (Restricted Business), provided that this does not prevent any Seller or Covenantor from holding in aggregate not more than 5% of the issued share capital of any public company listed on a recognised stock exchange;
- b at any other time disclose to any third party or use any confidential information about the Business which was obtained by the Seller or a Covenantor prior to Completion;
- c solicit or entice the business of any customer of the Company or otherwise cause or induce any customer of the Company to source their custom other than from the Company;
- d solicit or entice any of the officers, employees or contractors of the Company to terminate their position, employment or relationship with the Company otherwise than as a result of normal recruiting practices which are not targeted at any particular officer, employee or contractor; or
- e counsel, procure or otherwise assist any person to do any of the acts referred to in this clause 15.1.

Commented [A10]: In our capacity as Covenantors, we are unwilling for this restriction to extend to members of our families.

Commented [A11]: This description is too broad for the Seller and for us as Covenantors. We feel that any role in software development could be regarded as being "similar to" the Business.

- 15.2 **Restraint period:** Unless otherwise stated, the provisions of clause 15.1 will apply during the First Earn-out Period and the Second Earn-out Period and for one year from the end of the Second Earn-out Period.
- 15.3 **Restraints reasonable:** The Seller, each Covenantor and the Purchaser acknowledge that the restraints in this clause 15 are material to the Purchaser's decision to enter into this Agreement and are fair and reasonable with regard to subject matter, area and duration and are reasonably required by the Purchaser as consideration for the payment by the Purchaser of the Purchase Price and go no further than reasonably necessary to protect the Goodwill.
- 15.4 **Undertakings independent:** Each undertaking contained in clause 15 will be read and construed independently so that if any of the undertakings should be held to be invalid as an unreasonable restraint of trade or for any other reason then the remaining undertakings will be valid to the extent that they are not held to be invalid.
- 15.5 **Modification:** If a court of competent jurisdiction finds any of the undertakings contained in clause 15 to be unenforceable, the parties agree to accept any modification of the area, extent or duration of the restraint concerned which the court sees fit to impose, or if it does not see fit, which may be required to make the restraint enforceable.
- 15.6 **Equitable relief:** The Seller and each of the Covenantors acknowledge that monetary damages alone may not be adequate compensation to the Purchaser for a breach by it (or its related persons or associates) of this clause 15 and that the Purchaser is entitled to seek an injunction or other equitable relief from a court of competent jurisdiction if any person fails to comply, or threatens to fail to comply, with this clause 15, or the Purchaser believes on reasonable grounds that any person will not comply with this clause 15.

16 DISPUTES

- 16.1 **Referral to expert:** If any aspect of the preparation of the Completion Statement, the calculation of the Revenue, or the calculation of an earn-out payment is referred for expert determination in accordance with paragraph 6d of Part A of Schedule 2 or paragraph 1.4 of Part A of Schedule 3, the matters in dispute will be determined by a single expert and the following procedures will apply:
- a failing agreement on the appointment of the expert by the Seller and the Purchaser within five Business Days of referral for expert determination, the expert will be appointed at the request of either the Seller or the Purchaser by the president or the vice-president of the Institute of Chartered Accountants of New Zealand or the nominee of that president or vice-president;
 - b in reaching his or her decision, the expert must have regard to a single set of written submissions from each of the Purchaser and the Seller;

- c the determination of the expert must be delivered to the Seller and the Purchaser in writing within ten Business Days of the expert receiving and accepting his or her instructions (or such later time as may be agreed by the parties and the expert);
 - d the expert must specify brief reasons for the decision;
 - e the expert must not act as a mediator or an arbitrator and the Arbitration Act 1996 will not apply; and
 - f the expert's decision is final and binding on the parties.
- 16.2 **Parties to co-operate:** The Seller and the Purchaser will co-operate with each other and with the expert to provide the expert with all information it may reasonably require to complete its determination under this clause 16. The Seller and Purchaser will bear their own costs (including legal costs) and an equal share of the costs and expenses of the expert.

17 GST

- 17.1 **GST registration:** The Purchaser and the Seller each warrant that it is or will be a registered person under the GST Act at the "time of supply" (as that term is defined in the GST Act applicable to this Agreement) of the Business under this Agreement and will produce written evidence of that registration upon demand being made by the other party.
- 17.2 **Zero-rating:** The Seller and the Purchaser agree that:
- a the sale of the Business effected under this Agreement constitutes the supply of a taxable activity that they intend is capable of being carried on as a going concern at the time of supply for the purposes of the GST Act;
 - b the sale of the Business effected under this Agreement is a supply that is zero-rated for GST purposes in New Zealand; and
 - c if for any reason it is subsequently determined that GST is chargeable, other than at the zero rate, in respect of the sale of the Business effected under this Agreement, no party will have any liability or obligation to any other in respect of the GST treatment of the supply except as expressly provided in this Agreement.
- 17.3 **Payment of GST and Default Payment:** If it is subsequently determined that GST is chargeable, other than at the zero rate, in respect of the whole or any part of the supply made under this Agreement, the GST will, as between the Seller and the Purchaser, be payable by the Purchaser by way of an increase to the Purchase Price, and the Purchaser will pay to the Seller an amount equal to any Default Payment before the expiry of five Business Days after demand in writing has been made by the Seller to the Purchaser for the GST or Default Payment, provided that the Purchaser will not be required to pay:

- a any amount under this clause until the Seller provides to the Purchaser a tax invoice in respect of the supply (or, where the Seller has previously issued a tax invoice in respect of the supply, a debit note); or
 - b any Default Payment which accrues between:
 - i the date on which the Seller first receives written notice from the Inland Revenue Department of the liability to pay GST in respect of the supply; and
 - ii the date on which the Seller satisfies its obligations under this clause to provide a written demand and a tax invoice/debit note to the Purchaser.
- 17.4 **Interest at the Default Rate:** In the event that the Purchaser fails to pay to the Seller any part of the amount owing in accordance with clause 17.3 then the Purchaser will, in addition, pay to the Seller interest at the Default Rate on the unpaid amount until the date of payment in full.
- 17.5 **Obligation to make payment:** As between the Seller and the Purchaser, the Seller will not be obliged to pay any GST or Default Payment to the Inland Revenue Department or to take any additional steps to minimise the liability in respect of the GST or Default Payment until the corresponding payment is received in full from the Purchaser.
- 17.6 **Meaning of Default Payment:** For the purposes of this clause 17, **Default Payment** means any interest, penalty or other sum payable by the Seller under the GST Act or the Tax Administration Act 2004 by reason of the non or late payment of any GST in respect of the supply made under this Agreement but does not include any amount which is attributable to the period after payment to the Seller by the Purchaser of the proper amount of GST and the Default Payment to date.

18 MISCELLANEOUS CLAUSES

18.1 Confidentiality:

- a Subject to clause 18.1c, the parties undertake and agree to keep confidential and not to disclose to any third parties:
 - i the existence, provisions or subject matter of this Agreement or any document or agreement entered into pursuant to this Agreement;
 - i the negotiations relating to this Agreement; and/or
 - ii all information received or obtained as a result of entering into or performing this Agreement which relates to any of the parties.
- b Subject to clause 18.1c, the Seller will also treat as strictly confidential all information used in or otherwise relating to the Business, Assets or customers or financial or other affairs of the Seller in relation to the Business including all know-how comprised in the Seller IP.

- c Clauses 18.1a and 18.1b do not apply to the extent that a disclosure is:
 - i to professional advisers and financiers;
 - ii required by Law or by stock exchange rules;
 - iii necessary for the purpose of giving effect to or enforcing or attempting to enforce the terms of this Agreement;
 - iv reasonably required to fulfil the Conditions;
 - v approved by all of the other parties in writing in advance; or
 - vi in respect of information that is already in the public domain other than through the default of that party.
- 18.2 **Notices:** All notices and communications given under this Agreement must be in writing and will be delivered personally, sent by post or sent by email to the address or email address set out in Schedule 7 (or at such other address as notified from time to time by the party changing its address).
- 18.3 **Time of service:** Any notice given under this Agreement will be deemed to be validly given:
- a in the case of delivery, when received;
 - b in the case of posting, on the second day following the date of posting; or
 - c if emailed, one hour after the email is sent unless a return email is received by the sender within that one hour period stating that the addressee's email address is wrong or that the message cannot be delivered,
- provided that any notice received after 5 p.m. on a Business Day or on any day that is not a Business Day will be deemed to have been received on the next Business Day.
- 18.4 **Entire agreement:** This Agreement contains all of the terms, representations and warranties made between the parties relating to the matters dealt with in this Agreement and supersedes and cancels all prior discussions and agreements covering the subject matter of this Agreement. The parties have not relied on any representation, warranty or agreement relating to the subject matter of this Agreement that is not expressly set out in this Agreement, and no such representation, warranty or agreement has any effect from the date of this Agreement.
- 18.5 **Further assurances:** The parties must each sign all further documents, pass all resolutions and do all further things as may be necessary or desirable to give effect to this Agreement.
- 18.6 **Amendment:** This Agreement may only be amended by agreement of the parties in writing.
- 18.7 **Waiver:** No exercise or failure to exercise or delay in exercising any right or remedy will constitute a waiver by that party of that or any other right or remedy available to it.

Confidential

- 18.8 **No assignment:** No party may assign any of its rights or obligations under this Agreement without the prior written consent of the other parties.
- 18.9 **Costs:** Except as otherwise provided in this Agreement, the parties will meet their own costs relating to the negotiation, preparation and implementation of this Agreement.
- 18.10 **Partial invalidity:** If any provision of this Agreement becomes invalid or unenforceable to any extent, the remainder of this Agreement and its application will not be affected and will remain enforceable to the greatest extent permitted by law.
- 18.11 **No merger:** The obligations, warranties and representations of the parties under this Agreement, to the extent not already performed at Completion, will not merge on Completion, or on the execution or delivery of any document in connection with this Agreement, but will remain enforceable to the fullest extent notwithstanding any rule of law to the contrary.
- 18.12 **Signature:** This Agreement may be executed in two or more counterparts, each of which is deemed an original and all of which constitute the same Agreement. A party may enter into this Agreement by signing and sending (including by email) a counterpart copy to each other party.
- 18.13 **Governing law and jurisdiction:** This Agreement will be governed by New Zealand law, and the parties submit to the non-exclusive jurisdiction of the New Zealand courts.

Confidential

SCHEDULE 1

Seller IP

[List of registered patents and trade marks to be inserted here]

SCHEDULE 2

Completion Statement

Part A

Preparation of Completion Statement

- 1 **Seller to prepare Completion Statement:** The Seller will prepare a draft Completion Statement (**Draft Completion Statement**) promptly following Completion and in any event by 5 p.m. on the date that is 20 Business Days after Completion. The Purchaser will co-operate to allow the Seller to procure the preparation of the Completion Statement, including by making relevant employees working in the Business available when reasonably requested by the Seller.
- 2 **Details of Completion Statement:** The Completion Statement will:
 - a be in the format set out in Part B of this Schedule;
 - b set out the aggregate value of the Goodwill, the Lease and the Business Records as \$[2,500,000];
 - c set out the value of the Seller IP as \$[8,000,000];
 - d set out the value of the Plant and Equipment, Prepayments, Advance Receipts, and Employee Liabilities, as at the Completion Date;
 - e apportion any incomings and outgoings under clause 6.7; and
 - f set out the net amount payable by the Purchaser or the Seller (as applicable) after taking account of the payment of the Initial Amount.
- 3 **Value of Assets:** For the purposes of the Completion Statement, the value of items listed in paragraph 2d will be determined in accordance with the following:
 - a the value of the Plant and Equipment will be the book value of the Plant and Equipment recorded in the accounts of the Seller as at the Accounts Date, depreciated up to the Completion Date and updated to reflect Plant and Equipment acquired and disposed of in the period from the Accounts Date to the Completion Date; and
 - b the value of the Prepayments, Advance Receipts and Specified Liabilities will be the value of the Prepayments, Advance Receipts and Specified Liabilities as at the Completion Date.
- 4 **Policies to be applied:** The Completion Statement will be prepared and the items listed in paragraphs 2.1 d and 2.1e will be valued and determined in accordance with:

Commented [A12]: Suggest that we prepare the initial Completion Statement on the basis that we are more familiar with the Business, as carried on prior to Completion.

- a the Seller's accounting policies as applied by the Seller in the immediately preceding financial period; and
 - b subject to paragraph 4a, NZ GAAP.
- 5 **Purchaser's review:** The Purchaser will have until 5 p.m. on the date that is 20 Business Days after receipt of the Draft Completion Statement to review the Draft Completion Statement and either accept the Draft Completion Statement or raise any objection to it, in each case, by notice in writing to the Seller. If the Purchaser has any objection to the Draft Completion Statement, the notice will include details of the amendments that the Purchaser requires to the Draft Completion Statement and its reasons for requesting them.
- 6 **Final Completion Statement:** If by 5 p.m. on the date that is 20 Business Days after receipt of the Draft Completion Statement, the Purchaser:
- a accepts the Draft Completion Statement without amendment, the Draft Completion Statement will be the Completion Statement;
 - b fails to notify the Seller of its acceptance of, or any objection to, the Draft Completion Statement within the period set out in paragraph 5 of this Schedule, the Purchaser will be deemed to have accepted the Draft Completion Statement without amendment and the Draft Completion Statement will be the Completion Statement;
 - c raises any objection to the Draft Completion Statement and the Seller and the Purchaser agree amendments to the Draft Completion Statement by 5 p.m. on the date that is 10 Business Days after the date of receipt by the Seller of the Purchaser's objection, the Draft Completion Statement, as amended, will be the Completion Statement; or
 - d raises any objection to the Seller's Draft Completion Statement and the Seller and the Purchaser cannot reach agreement in respect of the objections by 5 p.m. on the date that is 20 Business Days after the date of receipt by the Seller of the Purchaser's objection, the Draft Completion Statement will be referred for determination in accordance with clause 16, and the Completion Statement as amended or approved by the expert will be the Completion Statement. As part of the process of attempting to reach agreement in respect of the objections, the Seller and the Purchaser must meet to discuss those objections within the time period referred to in this paragraph 6d.

Confidential

Part B
Pro-forma Completion Statement

Completion Statement: Purchase of Business of White Software Limited

Goodwill, Lease and Business Records

plus Seller IP

plus Plant and Equipment

[\$2,500,000]

plus Prepayments

[\$8,000,000]

less Advance Receipts

less Employee Liabilities

plus/less incomings/outgoings

A Total amount payable

B Initial Payment

\$9,500,000

A – B Balance payable to (or by) White Software Limited

\$0

SCHEDULE 3

Earn-out Payments

Part A

Calculation of Earn-out Payments

1 PROCEDURE FOR CALCULATING EARN-OUT PAYMENTS

- 1.1 The Purchaser will within 20 Business Days of the last day of each of the First Earn-out Period and the Second Earn-out Period prepare the First Earn-out Accounts and the Second Earn-out Accounts (as applicable) in accordance with the policies set out in paragraph 2 of Part A of this Schedule, and send to the Seller:
- a a copy of the First Earn-out Accounts or the Second Earn-out Accounts (as applicable); and
 - b a certificate stating:
 - i the Revenue for the First Earn-out Period or the Second Earn-out Period (as applicable);
 - ii any adjustments made to the First Earn-out Accounts or the Second Earn-out Accounts in arriving at the Revenue; and
 - iii the amount of the First Earn-out Payment or Second Earn-out Payment (as applicable) (if any) payable in respect of the First Earn-out Period or Second Earn-out Period (as applicable) (subject to any deduction made in accordance with clause 3.8).
- 1.2 The Seller has 20 Business Days from the day on which it receives the First Earn-out Accounts or the Second Earn-out Accounts (as applicable) and certificate referred to in paragraph 1.1 of this Schedule, to give notice to the Purchaser that it does not accept the accuracy of the certificate. If the Seller does not give notice under this paragraph 1.2, it is deemed to have accepted the certificate as accurate at the end of the 20 Business Day period.
- 1.3 Where the Seller gives notice that it does not accept the accuracy of the certificate, the parties have 20 Business Days, from the day on which the Purchaser receives the notice to resolve any disagreement relating to the certificate. The parties will use their reasonable endeavours to resolve the disagreement within that period.
- 1.4 Where the parties are unable to resolve their disagreement within the 20 Business Day period referred to in paragraph 1.3 of this Schedule, the calculation of the Revenue and the First Earn-out Payment or Second Earn-out Payment (as applicable) for the relevant period will be referred to an expert under clause 16.

- 1.5 Subject to clause 3.8, in relation to each of the First Earn-out Period or the Second Earn-out Period, the Purchaser will make the First Earn-out Payment or Second Earn-out Payment due to the Seller for the First Earn-out Period or the Second Earn-out Period (as applicable) within five Business Days from the day on which:
- a the Seller accepts or is deemed to have accepted the certificate relating to the First Earn-out Payment or Second Earn-out Payment (as applicable) as accurate in accordance with paragraph 1.2 of this Schedule;
 - b the parties have resolved all disagreements on that certificate; or
 - c the parties receive notice of the Expert's decision on the First Earn-out Payment or Second Earn-out Payment (as applicable) for the First Earn-out Period or Second Earn-out Period (as applicable).
- 1.6 Unless otherwise provided in this Schedule, the parties will each pay their own costs incurred in the preparation of the certificate and the agreement of the First Earn-out Payment or Second Earn-out Payment.

2 POLICIES TO DETERMINE REVENUE

Revenue will be calculated:

- a on an accruals basis;
- b so as to include a deduction for any repayments made to customers;
- c so as to include any amounts received by any Related Company of the Purchaser in connection with the products or services of the Business. If products or services of the Business are provided to any Related Company of the Purchaser on other than arms' length terms, the Revenue calculation is to reflect the full arms' length price for that product or service;
- d to take account of paragraph 2 of Part B of this Schedule;
- e to the extent not inconsistent with the above, on a basis consistent with the accounting policies of the Seller, and
- f to the extent not inconsistent with the above, in accordance with NZ GAAP.

Part B

Purchaser's Undertakings in Earn-out Periods

1 PURCHASER'S UNDERTAKINGS

Until the expiry of the Second Earn-out Period, the Purchaser will:

- a ensure that the *head of the Business* retains responsibility for the day-to-day management of the Business, reporting directly to the CEO of the Purchaser. The first *head of the Business* will be Shareholder Smith. The position of *head of the Business* will not be filled by a person other than Shareholder Smith or Shareholder Brown without their prior written consent. If the position of *head of the Business* is filled by a person other than Shareholder Smith or Shareholder Brown the Purchaser will ensure that the appointee has the requisite experience and skills to fulfil the role, is appropriately incentivised in respect of the performance of the Business, and is appointed in good faith and in consultation with Shareholder Smith and Shareholder Brown;
- b make available to the Business the higher of (i) the full level of planned financial resources identified in the agreed business plan for each year and (ii) the level of financial resources available to the Business in the year prior to Completion;
- c make available to the Business no fewer than 10 full time employees during each of the First Earn-out Period and the Second Earn-out Period, with appropriate skills and experience to fulfil their roles;
- d not make any redundancies within the Business;
- e other than via the Business, not offer services or products that directly compete with the products and/or services of the Business; and
- f ensure that the Business continues to be carried on from Auckland and Wellington, at the same locations as it carried on business immediately prior to Completion.

2 EARN-OUT ADJUSTMENT

Despite paragraph 1 of this Part B, the Purchaser may run the Business in contravention of any or all of the provisions of that paragraph 1, provided that if, as a consequence of that contravention, the Revenue for the relevant Earn-out Period would be less than it would have been except for that contravention, the Purchaser must adjust the Revenue for that Earn-out Period to take due and proper account of that impact.

SCHEDULE 4

Warranties

1 INTERPRETATION

Any Warranty expressed to be given on the basis of the awareness, knowledge or belief of the Warrantor, or any similar formulation of words, will be deemed to be a reference to the awareness, knowledge and belief of the Warrantor after making enquiries of the managers and directors of the Business.

2 INFORMATION

2.1 All information relating to the Assets or the Business provided in writing by the Seller or on behalf of the Seller to the Purchaser or its employees, agents and professional advisers (including all of the information and each statement contained in the Schedules to this Agreement, the Disclosure Letter and the Disclosed Materials but excluding budgets, forecasts, financial projections and expressions of opinion) was, when given, true, accurate and complete in all material respects and not intentionally misleading.

2.2 The Warrantor has disclosed to the Purchaser all information relating to the Assets and the Business that is material for disclosure to an intending purchaser of the Assets or the Business. The Warrantor is not aware of any circumstance which has not been disclosed in writing to the Purchaser and which might reasonably be expected materially and adversely to affect the financial position or profitability of the Business or the value of the Assets.

2.3 All copies of documents provided by the Seller to the Purchaser are complete and true copies and have not been varied, amended or the subject of any waiver.

2.4 Neither the execution of this Agreement, nor the transfer of the Assets to the Purchaser pursuant to this Agreement, nor any other provision of this Agreement, will:

- a entitle any person to acquire, or to require the Seller to dispose of, any right or benefit relating to the Business or any of the assets to which the Seller is entitled, or any interest in those assets;
- b be likely to cause any supplier or customer of the Business to discontinue or substantially reduce its trade with or patronage of the Business; or
- c otherwise cause or be likely to cause any right or benefit of or relating to the Business or any Asset to be cancelled, terminated or lost or adversely qualified or impaired.

3 RECEIVERSHIP AND LIQUIDATION

3.1 None of the following has occurred or is pending or threatened:

- a the passing of a resolution to wind up or liquidate the Seller;

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Commented [A13]: We don't feel the Seller can warrant financial projections, forecasts or any other forward-looking or non-factual matters.

- b an order for the winding up or liquidation of the Seller;
 - c the appointment of a statutory manager, receiver, liquidator or similar of the whole or any part of the Seller's undertaking;
 - d the entering into of a scheme, arrangement, compromise or composition for the benefit of the creditors of the Seller; or
 - e the holder of any security interest having taken any action, or attempted or indicated an intention to, exercise its rights under any security interest of which the Seller is the grantor or to which it is subject.
- 3.2 The Seller is able to pay its debts as and when they fall due.
- 3.3 There are no unsatisfied judgments or awards outstanding against the Seller and no execution, distress or similar process has been levied on or against all or any part of the Seller's business, assets or revenues.

4 BUSINESS RECORDS

The Business Records:

- a are in the possession or control of the Seller;
- b have been fully, properly and accurately kept and completed in all material respects;
- c do not contain material inaccuracies or discrepancies of any kind; and
- d have been prepared and kept in all material respects in accordance with the requirements of all applicable Laws (including the Financial Reporting Act 1993).

5 ACCOUNTS AND MANAGEMENT ACCOUNTS

- 5.1 The Accounts comply with the provisions of the Financial Reporting Act 1993 and have been prepared in accordance with generally accepted accounting practice on a basis consistent with that adopted in the preparation of the accounts of the Company for each of the last two preceding financial years and give a true and fair view of the assets and liabilities, state of affairs, financial position and results of the Seller, as at the close of each of the financial years to which they relate and of the trading and cash flows of the Seller, for each of those financial years.
- 5.2 The Accounts:
- a do not mislead or deceive;
 - b contain proper and adequate provision for and full disclosure of all:
 - i actual and contingent liabilities, commitments and obligations; and

- ii bad and doubtful debts; and
 - c are not affected by any unusual, abnormal, extraordinary, exceptional or non-recurring item.
- 5.3 The Management Accounts have been prepared on a consistent basis.
- 5.4 Since the Accounts Date:
- a there has been no material adverse change in the assets, liabilities, financial position, state of affairs, costs, profit or revenues of the Business;
 - b the Seller has carried on the Business in the ordinary and usual course in all material respects and has not entered into, varied or cancelled any contract or arrangement or made any payment other than in the ordinary and usual course of carrying on the Business;
 - c the Seller has not acquired or disposed of or dealt with any Asset nor has it entered into any agreement or option to dispose of any Asset, other than in the ordinary and usual course of carrying on the Business for full market value on arms length terms;
 - d no major customer of the Seller has:
 - i reduced the level of its custom from the Seller;
 - ii so far as the Warrantor is aware, indicated an intention to cease or reduce the volume of its trading with the Seller; or
 - iii materially altered the terms on which it trades with the Seller;
 - e the Seller has not given or entered into any guarantees, indemnities or letters of comfort; and
 - f the Seller has not implemented any new accounting or valuation method for its business, assets, property or rights.

6 ASSETS

- 6.1 All of the Assets of or used by the Seller are:
- a other than any leased Assets, the absolute property of the Seller;
 - b free of all Encumbrances other than any Permitted Security Interests; and
 - c in the possession or control of the Seller.
- 6.2 The Assets used by the Business are all the assets (other than the Excluded Assets) used for carrying on the Business as at the date of this Agreement.

- 6.3 Each Asset is located on the Properties or otherwise under the control of the Seller or one of the Employees.
- 6.4 The asset register of the Seller comprises a complete and accurate record in all material respects of all plant, equipment and vehicles owned or used by the Seller.

7 CONTRACTS

For the purposes of this paragraph 7, the term Contracts excludes the Lease.

- 7.1 All material contracts, commitments or arrangements to which the Seller is a party in relation to the Business have been disclosed to the Purchaser in writing and form part of the Due Diligence Materials. All material existing terms of all Contracts have been disclosed to the Purchaser during its due diligence and none of these terms have been waived, modified or raised.
- 7.2 So far as the Warrantor is aware, each of the Contracts is valid, binding and enforceable by the Seller in accordance with its terms.
- 7.3 None of the Contracts:
- a were entered into otherwise than in the ordinary course of the Business and on an arm's length basis;
 - b are outside the ordinary course of the Business;
 - c have a term greater than 12 months from the date of this Agreement and cannot be terminated on 12 months' notice or less;
 - d impose any exclusivity or territorial provisions or restrictions;
 - e impose any minimum purchase or expenditure commitments;
 - f involve liabilities which may fluctuate in accordance with an index or a rate of currency exchange;
 - g are dependent on any guarantee or covenant of or security provided by any other person; or
 - h entitle any person to acquire, or to require the Seller in relation to the Business to dispose of, any right, benefit or asset held by the Seller in relation to the Business or to which it is entitled, or has any interest.
- 7.4 With respect to each Contract:
- a no party to the Contract is in default of any material obligation under that contract and the Warrantor is not aware of any circumstances likely to give rise to a default;

- b the Seller is not in default of any material obligation under that contract and so far as the Warrantor is aware there are no circumstances likely to give rise to a default; and
- c no dispute exists as to any material terms of the Contract or any material matter relating to the operation of the Contract.

8 BUSINESS PREMISES

- 8.1 The Seller does not use for the purpose of the Business any land or buildings other than the Business Premises.
- 8.2 The Seller has exclusive occupation and the right of quiet enjoyment of each of the Business Premises and none of the Business Premises is subject to any lease, sub-lease, tenancy or right of occupation by any person other than the Seller.
- 8.3 The Business Premises are not subject to any unusual or onerous restrictions or conditions which would prevent the use of the Business Premises for the purposes of the Business carried out upon them at the date of this Agreement.
- 8.4 The Seller has neither received nor is it aware of any written notice from any competent authority relating to any breach by the Seller of the use of the Business Premises or of any applicable legislation (including the Resource Management Act 1991, the Building Act 1991, the Building Act 2004 and the Health and Safety in Employment Act 1992).
- 8.5 With respect to each Lease, the lessee under the Lease:
 - a has not defaulted in the payment of rent or other moneys;
 - b is not in breach of any other material obligation;
 - c has not served any notice to terminate the Lease;
 - d has not knowingly waived any breach of covenant, obligation or restriction under the Lease; and
 - e has not knowingly acted or omitted to act in a way which would cause or permit the forfeiture, termination or material reduction of the Seller's right to occupy the premises subject to the Lease.
- 8.6 With respect to each Lease, so far as the Warrantor is aware, the lessor under the Lease:
 - a has not defaulted in the payment of any money due under the Lease;
 - b is not in breach of any other material obligation;
 - c has not served any notice to terminate the Lease;
 - d has not waived any breach of covenant, obligation or restriction under the Lease; and

- e has not acted or omitted to act in a way which would cause or permit the forfeiture, termination or material reduction of the Seller's right to occupy the premises subject to the Lease.

8.7 The Seller:

- a has not agreed to any assignment, subletting, parting with possession or surrender of a Lease of any part of the property leased save as required by this Agreement; and
- b is not in dispute with any other party in relation to a Lease.

8.8 There is no liability on the Seller for repairs or dilapidations or to carry out works to any of the Business Premises.

8.9 So far as the Warrantor is aware, all water, sewerage, drainage, electricity, gas, telephone, telecommunications, data transmission and other services and utilities used on or available to the Business Premises exist and are available in proper working order with the consent of the suppliers of those services and with all statutory rights and approvals required from all government and local government bodies, boards or agencies or by registered easement with any property owners through or over which any such services or utilities exist or are provided.

8.10 The Warrantor is not aware of structural or other material defects in or affecting the buildings or other structures on any Business Premises.

9 TRANSFERRING EMPLOYEES

9.1 The Seller is not in breach of:

- a any individual or collective employment agreement; or
- b so far as the Warrantor is aware, any statute, regulation, code of conduct, policy or its obligations to act in good faith

applicable to any employee of the Seller.

9.2 The Seller has properly maintained wage and time records, copies of all employment agreements and other records detailing the length of service, accumulated benefits and entitlements and other relevant conditions of employment of each of its employees.

9.3 The Seller has provided to the Purchaser full details of the terms and conditions of employment of each of its employees.

9.4 The Seller is not involved in any actual or threatened employment, labour or personal grievance dispute, wrongful dismissal claim or employment relationship problem, or any other dispute with any employee or former employee, or any representative of any employee or former employee or organisation or body of employees (including any union), and, so far as

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the Warrantor is aware, no event has occurred which might give rise to any such dispute or claim.

9.5 There is not now in force any:

- a consultancy or similar agreement with any former director or employee of the Seller; or
- b agreement or arrangement with any other person to provide to the Seller the services of any present or former director or employee of the Seller.

9.6 The Seller is not:

- a subject to or in breach of any order, judgment or award given or made against it by the Employment Relations Authority, Employment Court, Court of Appeal or Supreme Court or other competent body;
- b a party to any undertaking or assurance given to the Employment Relations Authority; or
- c a party to any undertaking or assurance given to the Employment Court, Court of Appeal or Supreme Court or other competent body.

9.7 The Seller does not have any share incentive scheme, share option scheme or profit-sharing scheme for all or any of its directors or employees.

9.8 The Seller is not in bargaining with any union representing employees and no union has given notice to the Seller initiating bargaining or been appointed by any employee as his or her representative for bargaining, nor is the Seller aware of any proposals to appoint a union or to initiate bargaining for collective employment agreements on behalf of any employee.

9.9 The Seller has complied with its obligations under the KiwiSaver Act 2006, including its obligations (if any) to make contributions to any KiwiSaver scheme.

9.10 The Seller does not have any obligation, liability or duty to make any contribution or payment to, or deduction from, any person in respect of any superannuation or other similar arrangements except for those employees who have joined a Kiwisaver scheme.

10 INTELLECTUAL PROPERTY

10.1 All Intellectual Property developed, used or otherwise held by the Seller is:

- a the legal and beneficial property of the Seller free from all Encumbrances; or
- b licensed to the Seller by third parties under valid, binding and enforceable agreements (**Licensed IP**) that permit the Seller to use the Licensed IP as required by the Seller for the operation of its business.

- 10.2 So far as the Warrantor is aware, the use of the Seller IP and the Licensed IP by the Seller will not infringe the Intellectual Property rights of any person.
- 10.3 No claim has been made against the Seller by any third party alleging that the use of any of the Seller IP, Licensed IP, or any other Intellectual Property by the Seller infringes the intellectual property rights of any person.
- 10.4 The Warrantor is not aware of any pending, threatened, likely or actual infringement of any of the Seller IP by any person.
- 10.5 All Licensed IP used by the Company in connection with the Business is the subject of valid and binding licence agreements which have not been the subject of:
- a any breach or default by the Seller; or
 - b any claim, challenge, dispute, action or Proceeding.
- 10.6 To the extent the Seller uses or has used any open source or copyleft software or is a party to open or public source or similar licences, the Seller is in compliance with the terms of those licences, those licences are listed in the Disclosed Materials, and the Seller is not required under any of those licences to:
- a make or permit any disclosure or to make available any source code for its (or any of its licensors') proprietary software; or
 - b distribute or make available any of the Seller IP (or to permit any distribution or availability).
- 10.7 All registered Intellectual Property comprising the Seller IP have been maintained and are in force, and all renewal fees have been paid.
- 10.8 So far as the Warrantor is aware, nothing has been done or not been done as a result of which any rights to the Seller IP has ceased or might cease to be valid, subsisting or enforceable.
- 10.9 No claims of objection, revocation, cancellation, rectification, challenge or amendment have been received by the Seller in respect of the Seller IP.
- 10.10 The trade marks, patents, designs and domain names set out in Schedule 1 comprise all applications and registrations for registerable Intellectual Property owned by the Seller in the world.

11 LITIGATION

- 11.1 The Seller is not and has not, in the two years prior to the date of this agreement, been a party to any legal action or proceedings, arbitration, or any other form of mediation or dispute resolution (other than as plaintiff in normal debt collection matters) or statutory or governmental including any regulatory or municipal authority or board of enquiry or

commission or any other administrative body (whether judicial or quasi-judicial) inquiry of any kind (**Legal Proceeding**). There is no such Legal Proceeding pending or, so far as the Warrantor is aware, threatened against, or involving, the Seller.

11.2 So far as the Warrantor is aware, there are no circumstances which are likely to give rise to any Legal Proceeding in relation to the Business and there are no disputes existing or, so far as the Warrantor is aware, likely to arise between the Business and any customer, supplier or distributor.

11.3 Neither the Seller nor the Business is:

- a subject to or in breach of any order, judgment, award or decision given or handed down in any Legal Proceeding; or
- b a party to any undertaking or assurance given in any Legal Proceeding, which is current.

12 COMPLIANCE WITH LAWS

12.1 So far as the Warrantor is aware, the Business has been conducted in all material respects in accordance with all Laws and regulations of New Zealand applicable to the Assets and the conduct of the Business and no contravention or, as at the date of this Agreement, allegation of any contravention of any applicable Law is known to the Seller.

Confidential

SCHEDULE 5

Disclosed Materials

[List of disclosed materials/data room index to be inserted]

Confidential

SCHEDULE 6

Material Contracts

SCHEDULE 7

Details for Notices

Purchaser	
Contact Name	
Address (Physical Address)	
Email address	

Seller	
Contact Name	
Address (Physical Address)	
Email address	

Covenantors	
Contact Name	
Address (Physical Address)	
Email address	