

Purchasing a Business - CHECKLIST

PRE-CONTRACT

	YES	NO
Have you obtained an up-to-date copy of the business' credit report?	<input type="checkbox"/>	<input type="checkbox"/>
Have you considered the future financial projections and major growth drivers of the business?	<input type="checkbox"/>	<input type="checkbox"/>
Do you know why the vendor is selling the business?	<input type="checkbox"/>	<input type="checkbox"/>
Have you spoken with your lender or do you otherwise already have the finances to purchase the business?	<input type="checkbox"/>	<input type="checkbox"/>
Have you spoken with your accountant about having the correct purchasing entity established (individual, company, trust)?	<input type="checkbox"/>	<input type="checkbox"/>
Have you received a Section 52 Statement from the vendor and provided this to your accountant?	<input type="checkbox"/>	<input type="checkbox"/>
Have you spoken with your accountant in relation to financial status of the business?	<input type="checkbox"/>	<input type="checkbox"/>

TIP Ensure you speak with your accountant regarding the value of the business and business assets, together with any goodwill, in comparison to the proposed purchase price. This will help you independently verify the price and identify any warning signs.

Have you established a business plan for the business?	<input type="checkbox"/>	<input type="checkbox"/>
Do you know who the main customers of the business are, or will be?	<input type="checkbox"/>	<input type="checkbox"/>
Do you know who your competitors are, or will be?	<input type="checkbox"/>	<input type="checkbox"/>
Have you considered any potential future issues, such as changing technology, that may impact the business?	<input type="checkbox"/>	<input type="checkbox"/>
Have you considered any adverse impact on the business that may occur with a change in ownership?	<input type="checkbox"/>	<input type="checkbox"/>

TIP Ensure that you complete a thorough due diligence on the business before signing a contract.

BEFORE YOU SIGN ANYTHING

Has your solicitor reviewed the terms and conditions of the contract and provided an opinion on whether you should sign the contract in its current form? Your solicitor will usually require some amendments to tailor the contract to your circumstances.	<input type="checkbox"/>	<input type="checkbox"/>
Have you spoken with your accountant in relation to any potential tax implications resulting from the contract (e.g. GST, capital gains and stamp duty implications)?	<input type="checkbox"/>	<input type="checkbox"/>
If you are acquiring the business with other people, do you have a partnership agreement to regulate your relationship, how decisions are made, address risk and provide for succession planning and exit strategies?	<input type="checkbox"/>	<input type="checkbox"/>

TIP Arrange a face to face meeting or telephone conference with both your solicitor and accountant for them to advise you on any issues that either of them may have with the contract or the transaction.

Do you or your solicitor require any special conditions to be included within the contract?	<input type="checkbox"/>	<input type="checkbox"/>
Is the business subject to any pending, ongoing or recently finalised any litigation?	<input type="checkbox"/>	<input type="checkbox"/>
Is the business subject to any government regulations and if so, are all relevant licences, permits or consents up to date? If so, is the contract subject to having these transferred to you?	<input type="checkbox"/>	<input type="checkbox"/>

TIP Relevant licences, permits or consents can include a liquor licence, gaming licence, food permit, outdoor dining permit, APRA licences etc.

Have you spoken with the local council or other government agency to ascertain whether there are any plans or orders that could disrupt the operation of the business?	<input type="checkbox"/>	<input type="checkbox"/>
Is there a list of material contracts contained within the contract (eg customer or supplier contracts that are vital to the operation of the business)? Are there any material contracts that the Vendor holds that are not listed within the contract?	<input type="checkbox"/>	<input type="checkbox"/>
Is there a list of equipment hire contracts contained within the contract? Should there be (eg ATMs, drinks fridges, coffee machines)?	<input type="checkbox"/>	<input type="checkbox"/>

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Is there a list of intellectual property rights contained within the contract? Should there be (logos, manuals, recipes)?	<input type="checkbox"/>	<input type="checkbox"/>
Is there a list of motor vehicles contained within the contract? Should there be?	<input type="checkbox"/>	<input type="checkbox"/>
Is there a domain name or social media accounts listed within the contract? Should there be?	<input type="checkbox"/>	<input type="checkbox"/>
Is there a management system listed within the contract? Should there be (eg purchasing software, a customer database)?	<input type="checkbox"/>	<input type="checkbox"/>
Is there a list of assets owned and/ or utilised by the business? Are there any assets that the Vendor said that they owned and would be transferred that are not listed within the contract?	<input type="checkbox"/>	<input type="checkbox"/>

TIP Before you sign the contract, visit the premises working through the list of inclusions to identify whether there is anything missing from the contract. Everything included in the sale should be specified in the contract.

If the business is operated from a particular premises, are you taking this over?	<input type="checkbox"/>	<input type="checkbox"/>
If the business premises is leased, is there a copy of the lease contained within the contract?	<input type="checkbox"/>	<input type="checkbox"/>
Is the lease on commercial terms and is it of sufficient length to allow you to recoup your investment?	<input type="checkbox"/>	<input type="checkbox"/>

TIP If the business premises is leased and you will continue to operate the business from the business premises, ensure that the contract is subject to the lease either being assigned to you or, a new lease being entered into between the landlord (owner of the premises) and yourself. You will need to obtain the landlord's approval of you as a tenant. Therefore it is important to begin to collate details about your business experience and financial resources including a statement of assets and liabilities, resumes for the business owners, a business plan and references. The landlord will use these documents in determining whether they wish to approve you as a tenant. Try to arrange a face to face meeting as soon as possible

If you require financial assistance, is the contract subject to obtaining this finance?	<input type="checkbox"/>	<input type="checkbox"/>
Is the purchase price in the contract listed as agreed to between the vendor and yourself?	<input type="checkbox"/>	<input type="checkbox"/>
Is the completion date specified within the contract the same as what was agreed to between the vendor and yourself? Is it realistic having regard to the tasks that need to be completed before settlement (licence transfers, landlord consents etc).	<input type="checkbox"/>	<input type="checkbox"/>
Is there an assistance period specified within the contract where the vendor will help you learn to operate the business and introduce you to key customers and suppliers?	<input type="checkbox"/>	<input type="checkbox"/>
If you are purchasing stock with the business, is this in addition to the purchase price or included within the purchase price?	<input type="checkbox"/>	<input type="checkbox"/>

TIP In the event that you are purchasing stock on top of the purchase price, we recommend that you include a maximum stock value within the contract. This will mean that upon completion of a stocktake, if the total value of the stock exceeds the maximum stock value, you can elect whether you wish to purchase this additional stock. If this is not included, you may be obliged to buy all of the stock at its value regardless of your budget. You are not obliged to purchase stock which is out of date, defective or damaged.

Is the business subject to a franchise agreement and if so, is there a copy of the franchise agreement enclosed within the contract?	<input type="checkbox"/>	<input type="checkbox"/>
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TIP In the event that the business is subject to a franchise agreement, ensure that the contract is subject to this franchise agreement either being assigned to you or, a new franchise agreement being entered into between the franchisor and yourself. You will need your solicitor's and accountant's advice on the terms of any franchise agreement.

If there are employees employed within the business, is there a list of these employees contained within the contract?	<input type="checkbox"/>	<input type="checkbox"/>
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TIP In the event that you are not taking on all or any of the employees, ensure that this is specified within the contract. In addition, it is important to ensure that you are aware of any claims, or potential claims, in relation to the employees. You should also ensure that they are being paid under the correct award (if applicable) without relying on the Vendor's advice which may be incorrect and expose you to an underpayment claim.

Is there anything that the contract should be conditional upon, that is not specified within the contract?	<input type="checkbox"/>	<input type="checkbox"/>
Is there a restraint of trade specified within the contract which seeks to stop the Vendor setting up in competition to you?	<input type="checkbox"/>	<input type="checkbox"/>
Are there any encumbrances on any of the assets being transferred to you in the contract?	<input type="checkbox"/>	<input type="checkbox"/>

TIP Encumbrances refer to security interests such as loans on equipment. There is a risk of inheriting these loans or having assets seized if these are not dealt with properly by your solicitor.

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ONCE CONTRACTS ARE SIGNED

	YES	NO
Have you paid the deposit into a trust account and confirmed with your solicitor? Do not pay this directly to the Vendor	<input type="checkbox"/>	<input type="checkbox"/>
Ensure that all transfer applications are lodged in anticipation of settlement.	<input type="checkbox"/>	<input type="checkbox"/>
TIP It can take a number of weeks for transfer applications to be assessed and completed. Ensure that these documents are lodged immediately so as to ensure that settlement is not delayed. Check with your solicitor which applications they are lodging and which you are responsible for.		
Provide signed documents to your financier, if required, so as to assist with finance approval.	<input type="checkbox"/>	<input type="checkbox"/>
TIP Ensure that you continually liaise with you financier leading up to settlement. This will assist with providing for a smooth settlement to take place.		
Provide signed documents to you accountant as they may require them for future reference.	<input type="checkbox"/>	<input type="checkbox"/>

SETTLEMENT PREPARATION

Is your finance ready to go?	<input type="checkbox"/>	<input type="checkbox"/>
Have you made offers of employment to transferring employees?	<input type="checkbox"/>	<input type="checkbox"/>
TIP In the event that you need to provide your own funds to make up a shortfall in a loan, make sure that these are available in the correct account.		
Have you completed stocktake?	<input type="checkbox"/>	<input type="checkbox"/>
Do you have approval for all of your transfer applications?	<input type="checkbox"/>	<input type="checkbox"/>
Have all of the special conditions in the contract been met?	<input type="checkbox"/>	<input type="checkbox"/>