



*Law Society of Ireland*

**PRE-CONTRACT VAT ENQUIRIES (February 2014 Edition)**

Subject to Contract / Contract Denied

To be answered prior to settling the conditions of sale where VAT is relevant! © Law Society of Ireland

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Vendor: DEACY NOHILLY + WALSH PARTNERSHIP  
Vendor's VAT Registration No: 9658244E  
Purchaser: \_\_\_\_\_  
Subject Property: UNIT 13 BALLYBANE IND EST, BALLYBANE, GALWAY

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"Occupational Lease" means a lease which is not a freehold equivalent interest as defined in Section 2(1) the VAT Act.

"PCVE" means these Enquiries.

"Tenant's Refurbishment" means capital goods as described in Section 64(7) of the VAT Act.

"VAT Act" means the Value-Added Tax Consolidation Act 2010 as amended from time to time and related VAT regulations.

"TOB" means transfer of a business or part of a business under Section 20(2)(c) the VAT Act.

Reference to "VAT Special Condition 3" means the recommended format of VAT special condition current at the time of sale as referred to in Special Condition 3 of the Law Society's standard General Conditions of Sale.

**Private Treaty Sale**

Prior to the presentation of the draft Conditions of Sale by Private Treaty, the Purchaser shall complete the Purchaser Statement on the Purchaser's VAT status on Page 3 and issue these PCVE in duplicate to the Vendor. After completing the answers, the Vendor shall complete the drafting of Special Condition 3. The Vendor shall then send the draft Conditions of Sale together with one completed form of these PCVE to the Purchaser.

**Auction Sale**

When furnishing the Conditions of Sale for an auction sale, the Vendor shall answer these PCVE purely for the purposes of providing VAT information to a prospective Purchaser in relation to the sale of the Subject Property, including a sale which would otherwise be exempt,<sup>2</sup> on the assumption that the prospective Purchaser is a taxable person who will exercise the joint option to tax the sale but without prejudice to the Purchaser's right to opt, or not to opt, as provided in Special Condition 3.

The enquiry part of these PCVE is divided into 7 Sections:

- Section 1: Is VAT chargeable on the sale.  
Section 2: Vendor charges VAT at the appropriate reduced rate.  
Section 3: Purchaser self accounts for VAT at the appropriate reduced rate.  
Section 4: Transfer of Business.  
Section 5: Vendor charges VAT at the standard rate.  
Section 6: Sale of Let Property.  
Section 7: Tenant's Refurbishment.

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<sup>1</sup> This form is not appropriate for use:

- on the sale of secondhand residential property sold in a private capacity;
  - on the sale of new residential property to a Purchaser as a private person for a VAT inclusive consideration;
  - on the grant of an Occupational Lease; or
  - on a sale where VAT Special Condition 3 will be deleted entirely and the Purchaser does not require to know the VAT history of the Subject Property.
- In any such case Special Condition 3 will be deleted entirely

<sup>2</sup> "Exempt" includes the situation where the property is not mandatorily taxable but the joint option to tax may be exercised where both parties are taxable persons.

Where appropriate the terms "vendor"/"landlord" and "purchaser"/"tenant" are used interchangeably.

The Vendor should answer these PCVE in the section(s) which are relevant to the sale of the Subject Property.

Where there is insufficient space, the Vendor should provide the answer on an attached sheet or attached sheets.

For each part of the Subject Property which has a separate VAT status, a separate set of answers will be required.

The purposes of these PCVE are to enable the Purchaser's Solicitor to obtain the information necessary to advise the Purchaser on VAT issues relating to the Subject Property and to assist in the drafting of Special Condition 3. These purposes are stressed as in certain situations these PCVE may require more information to be furnished than is necessary and in other situations more information may actually be required.

To avoid serious difficulties, it is important that Special Condition 3 is drafted to suit the VAT status of the sale and paragraphs which are not relevant are struck out or omitted. A guide (the "Guide") as to how, using the answers to these PCVE, the Vendor shall settle VAT Special Condition 3 is set out on pages 19 to 25. If VAT Special Condition 3 is to be struck out in its entirety and the Purchaser does not require to know the VAT history of the Subject Property, it is not necessary to use these PCVE.

These PCVE, the Guide and VAT Special Condition 3 are general in nature and may not cover all situations. If in doubt, the advice of a tax expert should be sought.

These PCVE shall be furnished in its entirety without amendment.

**Warning: Before answering the PCVE, the Vendor should be satisfied as to the VAT status of the Subject Property and the sale. The answers will be relied upon by the Purchaser.**

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We certify that these PCVE are those as issued by the Law Society of Ireland (February 2014 Edition) without alteration or omission and that the numbering is unchanged.

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Signature of Issuing Solicitor

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Date

**SUBJECT TO CONTRACT/CONTRACT DENIED**

**Purchaser Statement on Purchaser's VAT Status**

		Please mark as appropriate	
		Yes	No
1.	The Purchaser is a taxable person as defined in Section 2 of the VAT Act who carries on a business in the State. <sup>3</sup>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2.	On the assignment or surrender of a "legacy lease" <sup>4</sup> (see VAT Special Conditions 3.2 and 3.6 and enquiries 2.4 and 3.3) the Vendor will require the Purchaser to confirm whether the Vendor or the Purchaser will account for VAT on the assignment or surrender. If the Purchaser answers "No" to this item 2, the Vendor must account for VAT on the assignment or surrender.  The Purchaser is a person described in Section 95(8)(c) of the VAT Act. <sup>5</sup>	<input type="checkbox"/>	<input type="checkbox"/>
3.	The Purchaser is an accountable person <sup>6</sup> as defined in Section 5 of the VAT Act. <sup>7</sup>	<input type="checkbox"/>	<input type="checkbox"/>
4.	Purchaser's VAT registration number:		

\_\_\_\_\_  
Signature of Purchaser (or Purchaser's Agent)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Capacity of Signatory

3 In the case of a sale where the joint option to tax (see VAT Special Condition 3.3.1 first paragraph) is to be exercised, the Vendor will require the Purchaser to confirm that the Purchaser is a "taxable person" who carries on a business in the State. Section 1 of the VAT Act defines a "taxable person" as "a person who independently carries on a business in the Community or elsewhere". Where the joint option to tax is exercised, the Purchaser, if a taxable person not already registered for VAT, should register for VAT and account accordingly.

4 Legacy leases (see Section 95(1)(b) of the VAT Act) are interests in leasehold property (so called because they are a legacy from the old system of VAT on property) that were treated as a supply of goods under the old rules. For a definition of "Legacy Lease" see section 3.7 of the Revenue VAT on Property Guide.

5 The following is a non-exhaustive list of purchasers described in Section 95(8)(c) of the VAT Act who should "self-account":  
 (a) an accountable person;  
 (b) a Department of State or Local Authority;  
 (c) a landlord;  
 (d) a bank;  
 (e) an insurance company or insurance broker;  
 (f) An Post;  
 (g) the operator of a national broadcasting or television service; or  
 (h) a transport operation

and the following is a non exhaustive list of persons who do not "self account":  
 (i) a bookmaker;  
 (j) a doctor;  
 (k) a dentist;  
 (l) a private individual;  
 (m) a university, training college or other educational establishment;  
 (n) an undertaker.

When in doubt, a direction should be sought from the Inspector of Taxes.

6 An accountable person is a taxable person who engages in the supply within the State of taxable goods or services.

7 Required only if the transaction is a transfer of a business under Section 20(2)(c) of the VAT Act.

## SECTION 1: IS VAT CHARGEABLE ON THE SALE

		Please mark as appropriate	
		Yes	No
1.	<b>IS VAT CHARGEABLE ON THE SALE?</b>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	If the answer to enquiry 1 is "Yes", confirm that the Vendor is a taxable person under Section 2 of the VAT Act for the purposes of the sale of the Subject Property.	<input type="checkbox"/>	<input type="checkbox"/>
	If "Yes", please state Vendor's VAT Number and proceed to Section 2.		
1.1	If the answer to enquiry 1. is "No", please indicate by a "Yes" or "No" answer which of the following categories of sale applies:		
	(a) The sale of a freehold/freehold equivalent interest which: (i) is not a sale as part of a TOB; and (ii) is not a sale where the Vendor is requesting the Purchaser to exercise the joint option to tax.	<input type="checkbox"/>	<input type="checkbox"/>
	(b) The assignment or surrender of an Occupational Lease: (i) which is not a sale as part of a TOB; and (ii) which is not a supply of a good or a service where VAT is chargeable on the sale.	<input type="checkbox"/>	<input type="checkbox"/>
	(c) The sale as part of a TOB qualifying for non application of VAT under the VAT Act Section 20(2)(c).	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	(d) Other category of sale on which VAT will not be chargeable either as the supply of a good or a service.	<input type="checkbox"/>	<input type="checkbox"/>
1.2	If the answer to either of enquiries 1.1(a) or (d) is "Yes", confirm that VAT Special Condition 3 will be deleted in its entirety. (If Vendor has answered "Yes" to either of such enquiries and agrees that VAT Special Condition 3 is to be deleted, answer enquiry 1.6 and related enquiries. No further answers are required in these PCVE but the right is reserved to make further enquiries to investigate the VAT history of the Subject Property.		
1.3	If the answer to enquiry 1.2 is "No", answer enquiry 1.6 and related enquiries and enquiries 2.2 and 2.3 and explain in writing on an <u>attached sheet</u> how the Vendor proposes to deal with VAT Special Condition 3 of the Law Society General Conditions of Sale. <sup>8</sup> No further answers to these PCVE are required but the right is reserved to make further enquiries to investigate the VAT history of the Subject Property.		
1.4	If the answer to enquiry 1.1(b) is "Yes", answer enquiry 1.6 and related enquiries and Section 7 and give details on an <u>attached sheet</u> to satisfy the Purchaser as to why VAT is not chargeable. No further answers to these PCVE are required but the right is reserved to make further enquiries to investigate the VAT history of the Subject Property.		
1.5	If the answer to enquiry 1.1(c) is "Yes", answer enquiry 1.6 and related enquiries and proceed to Section 4 (Transfer of Business).		
1.6	<b>Let (or previously let within 20 years) Subject Property</b>		
1.6.1	Is any part of the Subject Property let or sublet?	<input type="checkbox"/>	<input type="checkbox"/>
1.6.2	Within the last 20 years was any part of the Subject Property let or sublet and the subject of a waiver of exemption under Section 96 of the VAT Act?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
1.6.3	If the answer to either enquiry 1.6.1 or 1.6.2 is "Yes", please also answer Section 6.		

<sup>8</sup> If it is the case that in addition to the purchase price, under VAT Special Condition 3.4 the Vendor will charge the Purchaser an amount equal to the capital goods adjustment which the Vendor will suffer as a result of the sale of the Subject Property, give details to satisfy the Purchaser as to how this amount is calculated together with copies of relevant capital goods records.

**SECTION 2: VENDOR CHARGES VAT AT THE APPROPRIATE REDUCED RATE**

		Please mark as appropriate	
		Yes	No
2.	<b>WILL THE VENDOR CHARGE VAT AT THE APPROPRIATE REDUCED RATE?<sup>9</sup></b>	<input type="checkbox"/>	<input type="checkbox"/>
If the answer to enquiry 2 is "No", proceed to Section 3.			
2.1	If the answer to enquiry 2 is "Yes" indicate by a "Yes" or "No" answer which one of the following categories of sale at (a) to (d) applies:		
	(a) Sale of partially developed property. <sup>10</sup>	<input type="checkbox"/>	<input type="checkbox"/>
	(b) Sale of property coupled with building. <sup>11</sup>	<input type="checkbox"/>	<input type="checkbox"/>
	(c) Sale of a completed "new or nearly new" freehold/freehold equivalent interest. <sup>12</sup>	<input type="checkbox"/>	<input type="checkbox"/>
	(d) Assignment or surrender of a legacy lease to a person not specified in Section 95(8)(c) of the VAT Act. <sup>13</sup>	<input type="checkbox"/>	<input type="checkbox"/>
If the answer to either of enquiries 2.1 (a) or (c) is "Yes", answer enquiries 2.2, 2.3 and 2.5. No further answers are required.			
If the answer to enquiry 2.1(b) is "Yes", answer enquiries 2.2 and 2.5. No further answers are required.			
If the answer to enquiry 2.1(d) is "Yes", answer enquiries 2.4 and 2.5. No further answers are required.			
2.2	Please furnish now a draft VAT invoice showing the amount of VAT chargeable on the sale of the Subject Property.		
2.3	<b>Development:<sup>14</sup></b>		
2.3.1	Please state the date (irrespective of whether or not such date was before, on or after 1 July 2008) when the Subject Property was last developed to such an extent that such development renders the sale of the Subject Property a taxable supply of immovable goods in respect of which the development has been completed. <sup>15</sup>		
2.3.2	Please provide a description of such development on an <u>attached sheet</u> . Please also state:		
	(i) the cost of the development	€ _____	
	(ii) the total tax incurred; and	€ _____	
	(iii) the non deductible amount <sup>16</sup>	€ _____	
and furnish copies of the development contract or contracts			

9 Sections 3(1)(a), 94(5) and 95(3) or (6) of the VAT Act. Note if the Vendor will not charge VAT but either the Purchaser will be chargeable to VAT or the Vendor intends that the Purchaser will be so chargeable, the appropriate answer is "No".

10 Partially developed property refers to property which has been developed but has not been completed within the meaning of Section 94(1) of the VAT Act and is not excluded by Section 94(2)(d) of the VAT Act (20 year look back period). See Note 14 below for definition of "development".

11 Section 94(3) of the VAT Act.

12 This includes transitional properties held on 1 July 2008 by a taxable person where the Vendor had the right to deduct VAT on the acquisition or development. The supply of these properties can be taxable under the VAT Act as a supply of immovable goods without reference to the exercise of any joint option. This enquiry can only be answered in the affirmative where development (other than minor development) to a non residential property has been completed within 5 years prior to completion of the sale and the property has not been occupied for at least 2 years.

13 See footnote 5.

14 Section 2(1) of the VAT Act defines "development" as the construction, demolition, extension, alteration or reconstruction of any building on the land, or the carrying out of any engineering or other operation in, on, over or under the land to adapt it for a materially altered use. This does not include minor development to a building which does not adapt the building for a materially altered use and the value of the works do not exceed 25% of the value of the property at the time of sale.

15 Section 94(1) of the VAT Act.

16 Section 63(1) of the VAT Act.

		Please mark as appropriate	
		Yes	No
2.3.3	If more than one such development has taken place which renders the sale of the Subject Property taxable, answer enquiry 2.3.2 for each such development on <u>attached sheet</u> .		
2.3.4	2.3.4 Was any such development a refurbishment <sup>17</sup> ? If the answer is "Yes", please provide details on an <u>attached sheet</u> .	<input type="checkbox"/>	<input type="checkbox"/>
<b>Completed<sup>18</sup></b>			
2.3.5	If such development of the Subject Property was completed in stages please describe on an <u>attached sheet</u> the stages, and specify the date of completion for each stage and the relevant costs.		
2.3.6	Produce documentary evidence of the date(s) of completion of such development(s) and if relevant, the stages.		
<b>Occupied<sup>19</sup></b>			
2.3.7	Has the Subject Property been occupied in its entirety in accordance with appropriate planning permission since the date of such development?	<input type="checkbox"/>	<input type="checkbox"/>
2.3.8	If the answer to enquiry 2.3.7 is "No", give particulars on an <u>attached sheet</u> of: (a) dates, periods and other details of occupation of the Subject Property since such completion; and (b) the authorised use under any planning permission in respect of the Subject Property.		
2.3.9	Since completion of the most recent development which for the purposes of the VAT Act causes the sale of the Subject Property to be taxable as the supply of immovable goods, was every part of the Subject Property occupied for the purposes of the VAT Act?	<input type="checkbox"/>	<input type="checkbox"/>
2.3.10	If the answer to enquiry 2.3.9 is "Yes", please provide details on an <u>attached sheet</u> .		
<b>Sales Since Completion of Development<sup>20</sup></b>			
2.3.11	Since the completion of the most recent development of the Subject Property which for the purposes of the VAT Act causes the sale to be taxable as the supply of immovable goods, has there been a sale or sales of the Subject Property?	<input type="checkbox"/>	<input type="checkbox"/>
2.3.12	If the answer to enquiry 2.3.11 is "Yes", give details on an <u>attached sheet</u> of all sales for the period since the later of the most recent development or 5 years last past and include information on: (a) The VAT charged on each such sale; and (b) Whether the parties were "connected persons" within the meaning of Section 97(3) of the VAT Act.		
2.4	<b>Legacy Lease<sup>21</sup> – Vendor Accountable for VAT</b>		
2.4.1	Please identify by a "Yes" or "No" answer the type of sale of the Subject Property by reference to the following:		
	(a) assignment/surrender of a legacy lease held by the original lessee.	<input type="checkbox"/>	<input type="checkbox"/>
	(b) assignment/surrender of a legacy lease acquired by the Vendor by assignment prior to 1 July 2008.	<input type="checkbox"/>	<input type="checkbox"/>
	(c) assignment/surrender of a legacy lease acquired by the Vendor by the first assignment made after 1 July 2008.	<input type="checkbox"/>	<input type="checkbox"/>

17 Section 63(1) of the VAT Act.

18 Section 94(1) of the VAT Act.

19 "Occupied" means occupied and fully in use following completion where that use is one for which planning permission for the development of the property was granted and where the Subject Property is let, occupied and fully in use by the tenant.

20 "Sale" or, in the term used in the VAT Act, "supply", means "the transfer in substance of (a) the right to dispose of immovable property as owner or (b) the right to transfer immovable goods". (See the VAT Act Section 19(2)).

21 See footnote 4.

		Please mark as appropriate	
		Yes	No
	(d) assignment/surrender of a lease acquired by the Vendor as the successor in title of a person who acquired the legacy lease in the manner described in (c) above.	<input type="checkbox"/>	<input type="checkbox"/>
2.4.2	Was the Vendor entitled or deemed to have been entitled to deduct any VAT on the acquisition or development of the Subject Property?	<input type="checkbox"/>	<input type="checkbox"/>
2.4.3	If the answer to enquiry 2.4.2 is "Yes", please provide now: (a) draft document specified by Section 95(9)(a) of the VAT Act containing details of the VAT due on the sale of the Subject Property and the number of intervals remaining in the adjustment period; (b) evidence to verify the "total tax incurred"; and (c) evidence to confirm the number of intervals in the adjustment period.		
2.4.4	If the answer to enquiry 2.4.2 is "No", is the Vendor requesting the Purchaser to co-operate in exercising the joint option to tax the sale in accordance with Section 94(5) as authorised by Section 95(7)(b) of the VAT Act?	<input type="checkbox"/>	<input type="checkbox"/>
2.4.5	If the answer to enquiry 2.4.4 is "Yes", please set out the quantum of the VAT that may be recovered by the Vendor as a result of the exercise of such joint option	€ _____	
2.4.6	Without prejudice to the Purchaser's position in respect of the response to enquiry 2.4.4 would the Vendor agree not to exercise the joint option to tax and on what terms?	<input type="checkbox"/>	<input type="checkbox"/>
2.4.7	If the answer to enquiry 2.4.4 is "Yes", the Vendor is a taxable person but is not registered for VAT and the Purchaser is willing to co-operate in exercising the joint option to tax, please confirm that the Vendor will be so registered before completion and will on or prior to completion supply evidence of such registration.	<input type="checkbox"/>	<input type="checkbox"/>
2.5	Let (or previously let within 20 years) Subject Property		
2.5.1	Is any part of the Subject Property let or sublet?	<input type="checkbox"/>	<input type="checkbox"/>
2.5.2	Within the last 20 years was any part of the Subject Property let or sublet and the subject of a waiver of exemption under Section 96 of the VAT Act?	<input type="checkbox"/>	<input type="checkbox"/>
2.5.3	If the answer to either enquiry 2.5.1 or 2.5.2 is "Yes", please also answer Section 6.		

**SECTION 3: PURCHASER SELF ACCOUNTS FOR VAT AT THE APPROPRIATE REDUCED RATE**

		Please mark as appropriate	
		Yes	No
3.	<b>DOES THE VENDOR INTEND THAT THE PURCHASER WILL SELF ACCOUNT FOR VAT AT THE APPROPRIATE REDUCED RATE<sup>22</sup>?</b> If the answer to enquiry 3 is "No", proceed to Section 4.	<input type="checkbox"/>	<input type="checkbox"/>
3.1	If the answer to enquiry 3 is "Yes", indicate by a "Yes" or "No" answer which of the categories of sale at (a) or (b) applies:		
	(a) Sale of freehold/freehold equivalent interest where the Vendor is requesting that the joint option to tax the Subject Property shall be exercised. <sup>23</sup>	<input type="checkbox"/>	<input type="checkbox"/>
	(b) Assignment or surrender of legacy lease <sup>24</sup> to a Purchaser who is a person specified in Section 95(8)(c) of the VAT Act. <sup>25</sup>	<input type="checkbox"/>	<input type="checkbox"/>
	If the answer to enquiry 3.1(a) is "Yes", answer enquiries 3.2 and 3.4. No further answers in these PCVE are required but the right is reserved to make further enquiries to investigate the VAT history of the Subject Property.		
	If the answer to enquiry 3.1(b) is "Yes", answer enquiries 3.3 and 3.4. No further answers are required in these PCVE but the right is reserved to make further enquiries to investigate the VAT history of the Subject Property.		
3.2	<b>Development<sup>26</sup>/Completion<sup>27</sup></b>		
3.2.1	Please:		
	(a) state the date (irrespective of whether or not such date was before, on or after 1 July 2008) when the Subject Property was last developed to such an extent that any supply of the Subject Property immediately following the completion of that development was or would have been treated under the VAT Act as in force on 1 July 2008 as a taxable supply of immovable goods in respect of which the development had been completed (as defined in Section 94(1) of the VAT Act);		
	(b) provide a description of such development on an <u>attached sheet</u> giving the following information:		
	(i) the cost of the development;	€	_____
	(ii) the total tax incurred; and	€	_____
	(iii) the non-deductible amount, <sup>28</sup> and	€	_____
	(c) furnish copies of the development contract or contracts		

<sup>22</sup> Sections 94(5), 95(5) or 95(7)(b) of the VAT Act.

<sup>23</sup> This includes:

(a) transitional freehold/freehold equivalent property held prior to 1 July 2008 which is not new or nearly new and where the Vendor had the right to deduct VAT; and

(b) transitional freehold/freehold equivalent property held prior to 1 July 2008 where the Vendor had no right to deduct VAT regardless of whether the property is new or nearly new but the Vendor requires the joint option to tax to be exercised in a sale to a taxable person.

<sup>24</sup> See footnote 4.

<sup>25</sup> See reply 2 of the Purchaser Statement on Purchaser's VAT status at page 3. See also footnote 5.

<sup>26</sup> Section 2(1) of the VAT Act defines "development" as the construction, demolition, extension, alteration or reconstruction of any building on the land, or the carrying out of any engineering or other operation in, on, over or under the land to adapt it for a materially altered use. This does not include minor development to a building which does not adapt the building for a materially altered use and the value of the works do not exceed 25% of the value of the property at the time of sale.

<sup>27</sup> Section 94(1) of the VAT Act.

<sup>28</sup> Section 63(1) of the VAT Act.

		Please mark as appropriate	
		Yes	No
<b>Joint Option to Tax<sup>29</sup></b>			
3.2.2	If the Vendor is requesting that the Purchaser shall agree to jointly opt to have the sale chargeable to VAT in accordance with Section 94(5) of the VAT Act, please set out the quantum of the VAT that may be recovered by the Vendor as a result of the exercise of such option if the sale of the Subject Property is completed on the closing date. <sup>30</sup>	€ _____	
3.2.3	If the Vendor is requesting that the Purchaser shall agree to jointly opt to have the sale chargeable to VAT in accordance with Section 94(5) of the VAT Act, please state the amount of the VAT repayment under the Capital Goods Scheme which the Vendor will be obliged to repay and, if applicable, the amount of any VAT reclaim which the Vendor will forego, if the sale of the Subject Property is completed on the closing date and the joint option to tax the sale is not exercised.	€ _____ VAT repayable € _____ Reclaim foregone	
3.2.4	Without prejudice to the Purchaser's right not to participate in the exercise of the joint option to tax, will the Vendor agree not to request the exercise of the joint option to tax?  If so, specify the amount (with breakdown for each capital good on an <u>attached sheet</u> if necessary) required to compensate the Vendor for any capital goods adjustment which will apply for the Vendor and state the additional consideration which the Vendor would propose charging the Purchaser for not exercising such joint option.	<input type="checkbox"/> <input type="checkbox"/>  € _____ Additional consideration	
3.2.5	If the Vendor intends that the joint option will be exercised, state how the Vendor proposes that this exercise will be documented for record purposes?		
3.3	<b>Assignment/Surrender of Legacy Lease<sup>31</sup> – Purchaser Self Accounts for VAT</b>  Vendor should only answer this enquiry if the Purchaser answered "Yes" to the Purchaser Statement on VAT status number 2 at page 3. <sup>32</sup>		
3.3.1	Please identify by a "Yes" or "No" answer the type of sale by reference to the following:		
	(a) assignment/surrender of a legacy lease held by the original lessee.	<input type="checkbox"/>	<input type="checkbox"/>
	(b) assignment/surrender of a legacy lease acquired by the Vendor by assignment prior to 1 July 2008.	<input type="checkbox"/>	<input type="checkbox"/>
	(c) assignment/surrender of a legacy lease acquired by the Vendor by the first assignment made after 1 July 2008	<input type="checkbox"/>	<input type="checkbox"/>
	(d) assignment/surrender of a lease acquired by the Vendor as the successor in title of a person who acquired the legacy lease in the manner described in (c) above.	<input type="checkbox"/>	<input type="checkbox"/>
3.3.2	Was the Vendor entitled or deemed to have been entitled to deduct any VAT on the acquisition or development of the Subject Property?	<input type="checkbox"/>	<input type="checkbox"/>
3.3.3	If the answer to enquiry 3.3.2 is "Yes", please provide now: (a) draft document specified by Section 95(9)(a) of the VAT Act containing details of the VAT due on the sale of the Subject Property and the number of intervals remaining in the adjustment period; (b) evidence to verify the "total tax incurred"; and (c) evidence to confirm the number of intervals in the adjustment period.		
3.3.4	If the answer to enquiry 3.3.2 is "No", is the Vendor requesting the Purchaser to co-operate in exercising the joint option to tax the sale in accordance with Section 94(5) as conferred by Section 95(7)(b) of the VAT Act?	<input type="checkbox"/>	<input type="checkbox"/>

29 The joint option to tax under Section 94(5) of the VAT Act can only be exercised where the Vendor and the Purchaser are taxable persons.

30 This is only exercisable where the Vendor is a taxable person.

31 See footnote 4.

32 Sale of legacy lease. Vendor not entitled to deduct VAT on acquisition or development of the Subject Property.

		Please mark as appropriate	
		Yes	No
3.3.5	If the answer to enquiry 3.3.4 is "Yes", please set out the quantum of the VAT that may be recovered by the Vendor as a result of the exercise of such option.	€ _____	
3.3.6	Without prejudice to the Purchaser's position in respect of the response to enquiry 3.3.4, would the Vendor agree not to exercise the joint option to tax?	<input type="checkbox"/>	<input type="checkbox"/>
If the answer is "yes", please set out the terms on an <u>attached sheet</u> .			
3.3.7	If the answer to enquiry 3.3.4 is "Yes", the Vendor is a taxable person but is not registered for VAT and the Purchaser is willing to exercise the joint option to tax, please confirm that the Vendor will be so registered before completion and will on or prior to completion supply evidence of such registration.	<input type="checkbox"/>	<input type="checkbox"/>
3.4	<b>Let (or previously let within 20 years) Subject Property</b>		
3.4.1	Is any part of the Subject Property let or sublet?	<input type="checkbox"/>	<input type="checkbox"/>
3.4.2	Within the last 20 years was any part of the Subject Property let or sublet and the subject of a waiver of exemption under Section 96 of the VAT Act?	<input type="checkbox"/>	<input type="checkbox"/>
3.4.2	If the answer to either enquiry 3.4.1 or 3.4.2 is "Yes", please also answer Section 6.		

**SECTION 4: TRANSFER OF BUSINESS (TOB)<sup>33</sup>**

		Please mark as appropriate	Yes	No
4.	<b>IS THE SALE PART OF A TOB?</b>		<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.1	If the answer to enquiry 4 is "Yes", indicate by a "Yes" or "No" answer which of the following categories of sale at (a) to (d) applies:			
	(a) Sale of partially developed property. If the answer to (a) is "Yes", please answer enquiries 4.2 and 4.6.		<input type="checkbox"/>	<input type="checkbox"/>
	(b) Sale of new or nearly new freehold/freehold equivalent interest. <sup>34</sup> If the answer to (b) is "Yes", please answer enquiries 4.3 and 4.6.		<input type="checkbox"/>	<input type="checkbox"/>
	(c) Sale of freehold/freehold equivalent interest in the Subject Property under TOB rules which would otherwise be exempt with a joint option to tax the Subject Property. <sup>35</sup> If the answer to (c) is "Yes", please answer enquiries 4.4 and 4.6.		<input checked="" type="checkbox"/>	<input type="checkbox"/>
	(d) Assignment or surrender of legacy lease. If the answer to (d) is "Yes", please answer enquiries 4.5 and 4.6.		<input type="checkbox"/>	<input type="checkbox"/>
4.2	<b>Partially Developed Property</b>			
4.2.1	Describe on an <u>attached sheet</u> the development or, if there is more than one development, each of the developments of the Subject Property relevant for VAT on the sale.			
4.2.2	Please state the amount on which VAT would be chargeable on the sale of the Subject Property in the absence of TOB relief.	€	_____	
4.3	<b>New or Nearly New Property</b>			
	(a) <b>Development<sup>36</sup></b>			
4.3.1	Please state the date (irrespective of whether or not such date was before, on or after 1 July 2008) when the Subject Property was last developed to such an extent that in the absence of TOB Relief such development renders the sale of the Subject Property a taxable supply of immovable goods in respect of which the development has been completed. <sup>37</sup>			
4.3.2	Please provide a description of such development on an <u>attached sheet</u> . Please also state:  (i) the cost of the development; (ii) the total tax incurred; and (iii) the non-deductible amount. <sup>38</sup> and furnish copies of the development contract or contracts.	€ € €	_____ _____ _____	
4.3.3	If more than one such development has taken place which renders the sale of the Subject Property taxable, answer enquiry 4.3.2 for each such development on an <u>attached sheet</u> .			

<sup>33</sup> Section 20(2)(c) of the VAT Act.

<sup>34</sup> This includes transitional properties held on 1 July 2008 by a taxable person where the Vendor had the right to deduct VAT on the acquisition or development. The supply of these properties is taxable under the VAT Act as a supply of immovable goods without reference to the exercise of any joint option. This enquiry can only be answered in the affirmative where development (other than minor development) to a non residential property has been completed within 5 years prior to completion of the sale and the property has not been occupied for at least 2 years.

<sup>35</sup> This includes:  
(a) a transitional freehold/freehold equivalent property held from prior to 1 July 2008 which is not new or nearly new and where the Vendor had the right to deduct VAT; and  
(b) a transitional freehold/freehold equivalent property held prior to 1 July 2008 where the Vendor is a taxable person and had no right to deduct VAT on the acquisition or development regardless of whether the property is new or nearly new.

<sup>36</sup> Section 2(1) of the VAT Act defines "development" as the construction, demolition, extension, alteration or reconstruction of any building on the land, or the carrying out of any engineering or other operation in, on, over or under the land to adapt it for a materially altered use. This does not include minor development to a building which does not adapt the building for a materially altered use and the value of the works do not exceed 25% of the value of the property at the time of the sale.

<sup>37</sup> Section 94(1) of the VAT Act.

<sup>38</sup> Section 63(1) of the VAT Act.

		Please mark as appropriate	
		Yes	No
4.3.4	Was any such development a refurbishment <sup>39</sup> ? If the answer is "Yes", please provide details on an <u>attached sheet</u> .	<input type="checkbox"/>	<input type="checkbox"/>
	(b) Completed <sup>40</sup>		
4.3.5	If such development of the Subject Property was completed in stages please describe on an <u>attached sheet</u> the stages, and specify the date of completion for each stage and the relevant costs.		
4.3.6	Produce documentary evidence of the date(s) of completion of such development(s) and if relevant, the stages.		
	(c) Occupied <sup>41</sup>		
4.3.7	Has the Subject Property been occupied in its entirety in accordance with appropriate planning permission since the date of such development?	<input type="checkbox"/>	<input type="checkbox"/>
4.3.8	If the answer to enquiry 4.3.7 is "No", give particulars on an <u>attached sheet</u> of: (a) dates, periods and other details of occupation and vacancy of the Subject Property since such completion; and (b) the authorised use under any planning permission in respect of the Subject Property.		
4.3.9	Since completion of the most recent development which for the purposes of the VAT Act causes the sale of the Subject Property (in the absence of TOB relief) to be taxable as the supply of immovable goods, was every part of the Subject Property occupied for the purposes of the VAT Act?	<input type="checkbox"/>	<input type="checkbox"/>
4.3.10	Please provide details on an <u>attached sheet</u> of all occupations and non-occupations of the subject property relevant for the purposes of enquiry 4.3.9.		
	(d) Sales <sup>42</sup>		
4.3.11	Since the completion of the most recent development of the Subject Property which for the purposes of the VAT Act causes the sale to be taxable as the supply of immovable goods, has there been a sale or sales of the Subject Property?	<input type="checkbox"/>	<input type="checkbox"/>
4.3.12	If the answer to enquiry 4.3.11 is "Yes", please provide details on an <u>attached sheet</u> of each sale.		
4.3.13	Since the date of such development(s), has there been a sale or sales of the Subject Property to a "connected person" or "connected persons" within the meaning of Section 97(3) of the VAT Act?	<input type="checkbox"/>	<input type="checkbox"/>
4.3.14	If the answer to enquiry 4.3.13 is "Yes", please provide details on an <u>attached sheet</u> of each such sale.		

39 Section 63(1) of the VAT Act.

40 Section 94(1) of the VAT Act.

41 "Occupied" means occupied and fully in use following completion where that use is one for which planning permission for the development of the property was granted and where the Subject Property is let, occupied and fully in use by the tenant.

42 "Sale" in this section means "the transfer in substance of the right to dispose of immovable property as owner or the transfer in substance of the right to transfer immovable goods". (See VAT Act Section 19(2)).

		Please mark as appropriate	
		Yes	No
4.4	Freehold/Freehold Equivalent Interest which is no longer new or nearly new		
4.4.1	Please state the date (irrespective of whether or not such date was before, on or after 1 July 2008) when the Subject Property was last developed to such an extent that any supply of the Subject Property immediately following that development was or would have been treated under the VAT Act as in force on 1 July 2008 as a taxable supply of immovable goods in respect of which the development had been completed (as defined in Section 94(1)) of the VAT Act.	PROPERTY PURCHASED 06/12/2008	
4.4.2	Please provide a description of such development on an <u>attached sheet</u> . Please also state:  (i) the cost of the development; <u>PURCHASE</u> (ii) the total tax incurred; and (iii) the non-deductible amount <sup>43</sup> ,  and furnish copies of the development contract or contracts.	€ 1,400,000 € 189,000 € _____	
4.4.3	If more than one such development has taken place which renders the sale of the Subject Property taxable, give details of each of them on an <u>attached sheet</u> .		
4.4.4	Was any such development a refurbishment <sup>44</sup> ? If the answer is "Yes", please provide details on an <u>attached sheet</u> .	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4.4.5	If such development of the Subject Property was completed in stages, please describe the stages on an <u>attached sheet</u> , and specify the date of completion for each stage and the relevant costs.		
4.4.6	Since the date given in the answer to enquiry 4.4.1 above, has the Subject Property or any part of it been developed or undergone works to effect or materially alter the use? If so, please provide details on an <u>attached sheet</u> .	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Other Capital Goods</b>			
4.4.7	Please produce now a copy of the capital goods record written up to date for each development of the Subject Property and confirm that capital goods records for the Subject Property written up to date of completion will be handed over on completion.		

43 Section 63(1) of the VAT Act.

44 Section 63(1) of the VAT Act.

Please mark as appropriate **Yes** **No**

		Yes	No
4.5	<b>Assignment/Surrender of Legacy Lease<sup>45</sup></b>		
4.5.1	Was the Vendor entitled to deduct any of the VAT incurred on the acquisition or development of the lease?	<input type="checkbox"/>	<input type="checkbox"/>
4.5.2	State the amount on which VAT would be chargeable on the sale of the Subject Property in the absence of TOB relief.	€ _____	
4.5.3	Produce a copy of the capital goods record written up to date for the Subject Property and confirm that a capital goods record for the Subject Property written up to date of completion will be handed over on completion.		
4.6	<b>Let (or previously let within 20 years) Property</b>		
4.6.1	Is any part of the Subject Property let or sublet?	<input type="checkbox"/>	<input type="checkbox"/>
4.6.2	Within the last 20 years was any part of the Subject Property let or sublet and the subject of a waiver of exemption under Section 96 of the VAT Act?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4.6.3	If the answer to either enquiry 4.6.1 or 4.6.2 is "Yes", please also answer Section 6.		

<sup>45</sup> See footnote 4.

## SECTION 5: VENDOR CHARGES VAT AT THE STANDARD RATE

		Please mark as appropriate	
		Yes	No
5	<b>WILL THE VENDOR CHARGE VAT AT THE STANDARD RATE?</b>	<input type="checkbox"/>	<input type="checkbox"/>
5.1	If the answer to enquiry 5.1 is "Yes", please indicate by a "Yes" answer which one of the following categories of transaction (a) to (d) applies:-		
	(a) The sale is a surrender for a premium payable by the purchaser of an occupational lease created prior to 1 July 2008 for a term of less than 10 years where the landlord's waiver of exemption under section 7 of the VAT Act 1972 applies; or	<input type="checkbox"/>	<input type="checkbox"/>
	(b) The sale is a surrender for a premium payable by the purchaser of an occupational lease created after 30 June 2008 where the landlord's option to tax is in place; or	<input type="checkbox"/>	<input type="checkbox"/>
	(c) The sale is an assignment for a premium payable by the purchaser of an occupational lease created prior to 1 July 2008 for a term of less than 10 years where the landlord's waiver of exemption from VAT applies; or	<input type="checkbox"/>	<input type="checkbox"/>
	(d) The sale is an assignment for a premium payable by the purchaser of an occupational lease created after 30 June 2008 whether or not the landlord's option to tax is in place.	<input type="checkbox"/>	<input type="checkbox"/>
5.2	Please furnish now a draft VAT invoice showing the amount of VAT chargeable.		
5.3	Is the Subject Property assigned or surrendered the subject of a Tenant's Refurbishment?	<input type="checkbox"/>	<input type="checkbox"/>
5.4	If the answer to enquiry 5.3 is "Yes", please also answer Section 7.		
5.5	<b>Let (or previously let within 20 years) Property</b>		
5.5.1	Is any part of the Subject Property let or sublet?	<input type="checkbox"/>	<input type="checkbox"/>
5.5.2	Within the last 20 years was any part of the Subject Property let or sublet and the subject of a waiver of exemption under Section 96 of the VAT Act?	<input type="checkbox"/>	<input type="checkbox"/>
5.5.3	If the answer to either enquiry 5.5.1 or 5.5.2 is "Yes" please answer Section 6.		

**SECTION 6<sup>46</sup> : SALE OF LET OR SUBLET PROPERTY (INCLUDES A PROPERTY WHICH WAS WITHIN THE LAST 20 YEARS LET OR SUBLET AND THE SUBJECT OF A WAIVER OF EXEMPTION UNDER SECTION 96 OF THE VAT ACT)**

For each lease or sublease please complete a separate answer sheet for the following section.

		Please mark as appropriate	
		Yes	No
6.	IS THE SUBJECT PROPERTY ITSELF THE SUBJECT OF ANY LEASE OR SUBLEASE OR SINCE ITS ACQUISITION, WAS IT LET AT ANY TIME WITHIN THE LAST 20 YEARS? If the answer to enquiry 6 is "No", proceed to Section 7.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6.1	If the answer to enquiry 6 is "Yes", please confirm in respect of the lease or sublease:-		
(a)	the name and address of the <del>current</del> lessee/sublessee; RIVERDEED MOUNTAIN HIGH MIDDLE STREET, GALWAY		
(b)	the business carried on by the [current] lessee/sublessee; RETAIL		
(c)	the date of creation of the lease or sublease; INFORMAL SHORT TERM LEASE SINCE 2008 DECEMBER		
(d)	the date of expiry of the leasehold term.		
6.2.1 (a)	Was VAT charged or deemed to have been charged on the grant of the lease?;	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b)	Was VAT charged on the rent?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	If the answer to both of these enquiries is "No", proceed to Section 7.		
6.2.2	If the answer to either of enquiries 6.2.1 (a) or (b) is "Yes", please confirm by a "Yes" or "No" answer which one of the three following descriptions applies to the lease or the sublease The lease or sublease in question is:-		
(a)	A legacy lease <sup>47</sup> ; If the answer is "Yes" please answer enquiries 6.3 and 6.6.	<input type="checkbox"/>	<input type="checkbox"/>
(b)	A lease subject to Vendor's waiver of exemption; If the answer is "Yes" please answer enquiries 6.4 and 6.6.	<input type="checkbox"/>	<input type="checkbox"/>
(c)	A lease subject to Vendor's option to tax. If the answer is "Yes" please answer enquiries 6.5 and 6.6	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6.3	<b>Legacy Lease</b>		
6.3.1	State the VAT charged (if any) or which would have been charged except for the operation of Section 4A of the Value Added Tax Act 1972 on the creation of the lease.	€ _____	
6.3.2	State the expiration date in respect of the lease of the period specified in Section 95(5) of the VAT Act.		
6.3.3	Please provide now a copy of the relevant Section 4B Certificate issued under Section 4A of the Value Added Tax Act 1972.		

<sup>46</sup> The purpose of this section is to clarify the application of VAT to a let or previously let or sublet subject property.  
<sup>47</sup> See footnote 4.

		Please mark as appropriate	
		Yes	No
6.4	<b>Waiver of Exemption</b>		
6.4.1	Please provide now copy documents to show that the tenant is liable to pay VAT in addition to the rent under the terms of the lease.		
6.4.2	Does the sale of the Subject Property result in a cancellation of a waiver of exemption made by the Vendor under Section 96 of the VAT Act? <sup>48</sup>	<input type="checkbox"/>	<input type="checkbox"/>
6.4.3	Was any such waiver of exemption previously cancelled in respect of any letting of the Subject Property?	<input type="checkbox"/>	<input type="checkbox"/>
6.4.4	Does the fact that any such cancellation of a waiver has occurred or will occur impact on the sale?	<input type="checkbox"/>	<input type="checkbox"/>
6.4.5	If the answer to enquiry 6.4.2, 6.4.3 or 6.4.4 is "Yes", please give details on an <u>attached sheet</u> .		
6.5	<b>Option to Tax</b>		
6.5.1	Is the tenant liable to pay VAT in addition to the rent under the terms of the lease?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6.5.2	Is the landlord's option to tax still in place in accordance with Section 97 of the VAT Act? <i>NO LEASE PRESENTLY IN PLACE</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6.5.3	Please provide copy documentation showing that the landlord for the time being is entitled to exercise the landlord's option to tax in respect of the lease and that the landlord's option to tax has been exercised.		
6.6	<b>Refurbishment</b>		
6.6.1	Has any tenant of any such let property carried out any refurbishment on the let property?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
6.6.2	If the answer to enquiry 6.6.1 is "Yes", has the landlord agreed to accept responsibility on any surrender of the Lease for any Tenant's Refurbishment?	<input type="checkbox"/>	<input type="checkbox"/>
	If so please give details of such 'tenant's' refurbishment on an <u>attached sheet</u> .		

48 Vendor should be aware that the cancellation of a waiver under Section 96 of the VAT Act may have an impact on the Vendor's VAT position in relation to the Subject Property.

**SECTION 7: TENANT'S REFURBISHMENT<sup>49</sup>**

		Please mark as appropriate	
		Yes	No
7	HAS THE VENDOR OR PREDECESSOR IN TITLE, BEING A TENANT OF THE SUBJECT PROPERTY UNDER AN OCCUPATIONAL LEASE, CARRIED OUT A TENANT'S REFURBISHMENT OF THE SUBJECT PROPERTY OR TAKEN RESPONSIBILITY FOR A TENANT'S REFURBISHMENT?	<input type="checkbox"/>	<input type="checkbox"/>
7.1	If the answer to enquiry 7 is "Yes", confirm that the Vendor was entitled to deduct all VAT incurred in relation to the/each Tenant's Refurbishment		
7.2	Is the Vendor requesting that the Purchaser agree to be responsible for all obligations in respect of each Tenant's Refurbishment?	<input type="checkbox"/>	<input type="checkbox"/>
7.2.1	If the Vendor is requesting that the Purchaser agree to be responsible for all obligations in respect of each Tenant's Refurbishment, please set out the quantum of the VAT which would otherwise have been payable to Revenue by the Vendor pursuant to Section 64(7)(a) of the VAT Act in the absence of the Purchaser so agreeing.	€ _____	
7.2.2	If the answer to enquiry 7.2 above is "Yes", without prejudice to the Purchaser's position on an <u>attached sheet</u> please:- (a) describe each Tenant's Refurbishment; (b) specify the adjustment period of each Tenant's Refurbishment; and in respect of each Tenant's Refurbishment, provide a copy of the capital goods record and state the form of the written agreement to be entered into by the Purchaser to enable Section 64(7) of the VAT Act to apply on the sale.		

Dated \_\_\_\_\_ 20\_\_\_\_\_

Dated \_\_\_\_\_ 20\_\_\_\_\_

\_\_\_\_\_  
Vendor/Solicitors for Vendor

\_\_\_\_\_  
Purchaser/Solicitors for Purchaser

<sup>49</sup> This Section need only be completed where the Subject Property is an interest under an Occupational Lease. A tenant under an occupational lease who was not entitled to deduct all of the VAT incurred on the acquisition or development of a refurbishment is NOT entitled to transfer responsibility to an Assignee or Surrenderee.

## Capital Good Record

For Unit 13 Ballybane Industrial Estate, Ballybane, Galway

For the Purposes of Section 64(12) and Regulation 27(1)(v) VAT Regulations 2010

<u>Total Tax Incurred</u>	€189,000
<u>Amount of VAT Deducted</u>	€189,000
<u>Commencement of Adjustment Period</u>	6th December 2007
<u>Number of Intervals in Adjustment Period</u>	20
<u>Initial Proportion of Deductible Use</u>	100%
<u>Total Reviewed Deductible Amount</u>	€189,000

### Interval Analysis:

	Period From	Period To	Reference Deduction Amount	Interval Deduction Amount	Adjustment
Interval 1	06/12/2007	05/12/2008	€9,450	€9,450	Nil
Interval 2	06/12/2008	31/12/2008	€9,450	€9,450	Nil
Interval 4	01/01/2009	31/12/2009	€9,450	€9,450	Nil
Interval 5	01/01/2010	31/12/2010	€9,450	€9,450	Nil
Interval 5	01/01/2011	31/12/2011	€9,450	€9,450	Nil
Interval 6	01/01/2012	31/12/2012	€9,450	€9,450	Nil
Interval 7	01/01/2013	31/12/2013	€9,450	€9,450	Nil
Interval 8	01/01/2014	31/12/2014	€9,450	€9,450	Nil