

**PRELIMINARY AGREEMENT SAMPLE**

**on purchase and sale of small privatization object (except for block of shares, participatory share), according to the results of the electronic auction (including with conditions, without conditions, with a reduction in the starting price, by the method of step-by-step reduction of the starting price and subsequent submission of price offers, repeated by the method of step-by-step reduction of the starting price and further submission of price offers)**

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(place of conclusion, date, month, year (in block letters))

We, the undersigned, \_\_\_\_\_

(name, record of state registration in the Unified State Register of Legal Entities, Individual - Entrepreneurs and Public Organizations, location of the state privatization authority)

represented by \_\_\_\_\_,  
(position, surname, first name and patronymic)

who is acting on the basis of \_\_\_\_\_  
(name, number and date of registration of the document)

(hereinafter referred as to – **Seller**), on one Part, and

*for a legal entity buyer: [*

\_\_\_\_\_,  
(name, identification code, record of state registration in the Unified State Register of Legal Entities, Individual - Entrepreneurs and Public Organizations, location, tax number)

represented by \_\_\_\_\_  
(position, surname, first name and patronymic (if available))

acting on the basis of \_\_\_\_\_ (hereinafter referred as to – **Buyer**), on other Part,  
(name, number and date of registration of the document)

*for an individual buyer: [*

\_\_\_\_\_, residing at address: \_\_\_\_\_  
(surname, first name and patronymic (if available) (address))

passport \_\_\_\_\_, issued by \_\_\_\_\_,  
(series, number) (issuing authority, date)

registration number of the taxpayer's registration card: \_\_\_\_\_ (hereinafter referred as to – **Buyer**),

on other Part,]

hereinafter collectively referred as to – **Parties**, and each separately also referred as to – **Party**, previously got acquainted with requirements of civil legislation of Ukraine on invalidity of transactions, having sufficient volume of civil capacity, being of sound mind, clear memory and acting on the basis of free will, according to results of the electronic auction No. \_\_\_\_\_ dated \_\_\_\_\_.202\_\_, approved by order \_\_\_\_\_ dated \_\_\_\_\_.202\_\_ No. \_\_\_\_ (hereinafter referred as to – **electronic auction**),  
(privatization authority name)

according to the order \_\_\_\_\_ dated \_\_\_\_\_.202\_\_ No. \_\_\_\_ «On making a decision  
(privatization authority name)

on the conclusion of the Preliminary Agreement on Purchase and Sale \_\_\_\_\_»,  
(name of the privatization object)

concluded this Preliminary Agreement on Purchase and Sale \_\_\_\_\_ (  
(name of the privatization object)

hereinafter referred as to – **Preliminary Agreement**) as follows.

## 1. Preliminary Agreement subject

1.1. The Buyer who won the electronic auction for the sale of the object of small privatization \_\_\_\_\_,

(name of the privatization object)

which is located at: \_\_\_\_\_

(hereinafter referred as to – **Privatization Object**), undertakes to take measures to prepare documents for the notarization of the Purchase and Sale Agreement of the Privatization Object in accordance with the requirements of the law, conclude the Purchase and Sale Agreement of the Privatization Object with the Seller on the terms established by this Preliminary Agreement, and ensure its notarization, and the Seller undertakes to conclude a Purchase and Sale Agreement of the Privatization Object with the Buyer on the terms established by this Preliminary Agreement.

The Buyer paid in full the sale price of the Privatization Object determined by the results of the auction, in amount \_\_\_\_\_ UAH, including VAT in amount

(sum in numbers and words)

\_\_\_\_\_ UAH.

(sum in numbers and words)

1.2. The list of real estate and vehicles that are part of the Privatization Object is given in the appendices No. 1 and No. 2; the list of real estate for which technical documentation must be produced is given in the appendix No. 3 which are integral parts of this Preliminary Agreement.

## 2. Obligations and rights of the Parties

2.1. Each Party undertakes to perform the duties assigned to it by this Preliminary Agreement, not to hinder and assist the other Party in the performance of its duties and has the right to demand from the other Party the proper performance of its duties provided for in the terms of the Preliminary Agreement.

2.2. The Party that violated the obligations taken in accordance with this Preliminary Agreement must eliminate these violations. A breach of an obligation under this Preliminary Agreement is the non-fulfillment or improper fulfillment of the conditions specified in this Preliminary Agreement.

## 3. Buyer's obligations

3.1. The Buyer is obliged to ensure the production of technical documentation for real estate, the list of which is provided for in Appendix No. 3 to this Preliminary Agreement, within a period not exceeding 45 working days from the date of conclusion of this Preliminary Agreement.

3.2. The Buyer is obliged to hand over to the Seller within a period not exceeding 45 working days from the date of conclusion of this Preliminary Agreement, according to the act of acceptance and transfer, which is signed by the Parties and sealed with their seals (if available), the technical documentation for the real estate objects listed in Appendix No. 3 to this Preliminary Agreement.

3.3. Within 60 working days from the date of conclusion of this Preliminary Agreement, the Buyer is obliged to conclude the Purchase and Sale Agreement of the Privatization Object (hereinafter referred to as – **Agreement**) with the Seller and ensure its notarization. The Purchase and Sale Agreement of the Privatization Object will include the following conditions:

3.3.1. The Buyer is obliged to obtain the permission of the Antimonopoly Committee of Ukraine for concentration, if obtaining such permission is required by law, and to provide the Seller with a duly certified copy of such permission or the refusal of the Antimonopoly Committee of Ukraine to grant such permission within two working days from the date of receipt.

3.3.2. The Buyer is obliged to accept the Privatization Object according to the act of acceptance - transfer within the period established by the Agreement.

3.3.3. The Buyer is obliged to provide, at the Seller's request, the information necessary for him to monitor the fulfillment of the terms of this Agreement.

3.3.4. From the moment of the transfer of ownership, the Buyer is obliged to fulfill the terms of sale of the Privatization Object (provided by the terms of the auction), namely:

\_\_\_\_\_;  
\_\_\_\_\_.

(all conditions of sale are indicated)

The term of performance of the obligations specified in the Agreement, for which the term of their performance has not been established, except for mobilization tasks, does not exceed five years.

3.3.5. If the Privatization Object includes objects classified as monuments of cultural heritage, the Buyer must comply with the requirements of the current legislation on the protection of cultural heritage.

3.3.6. Expropriation of the Privatization Object (its part) before the full fulfillment of the terms of the Agreement is possible only with the consent of the Seller in accordance with the procedure established by the State Property Fund of Ukraine.

3.3.7. The obligations specified in this Agreement remain valid for the persons who purchase the Privatization Object in case of its subsequent alienation during the term of validity of such obligations.

3.3.8. In the case of further alienation of the Privatization Object, the obligations stipulated by the Agreement and not fulfilled on the date of such alienation shall be transferred to the new owner.

3.3.9. In the case of further alienation of the Privatized Object, the new owner must submit copies of documents confirming the transfer of ownership to the Seller within two weeks from the date of transfer of ownership of such object.

3.3.10. The new owner, as well as the lender financing the purchase of the Privatization Object, must meet the requirements for buyers of Privatization Objects, established by Article 8 of the Law of Ukraine «On Privatization of State and Communal Property».

3.3.11. The transfer of the Privatization Object (or part) to the pledge or the contribution of such an object (real estate) to the authorized capital of the economic entity during the period of validity of the terms of this Agreement is carried out with the consent of the Seller, in accordance with the procedure established by the State Property Fund of Ukraine.

3.3.12. Other terms of the Purchase and Sale Agreement, including regarding the acquisition of ownership, legal succession\*, transfer of the Privatization Object, responsibility of the Buyer, which are determined in accordance with the Purchase and Sale Sample Agreement of the corresponding Privatization Object, approved by the State Property Fund of Ukraine.

#### **4. Seller's obligations**

4.1. The Seller is obliged, after the Buyer fulfills all the conditions specified in this Preliminary Agreement, within 60 working days from the date of conclusion of this Preliminary Agreement, to conclude a Purchase and Sale Agreement of the Privatization Object with the Buyer on the terms determined in accordance with the subsections 3.3.1-3.3.12 section 3.3 Preliminary Agreement.

#### **5. Buyer's responsibility**

5.1. In case of failure to fulfill the sections 3.1 – 3.2 Preliminary Agreement, as well as in case of non-compliance of the Buyer with the requirements of Article 8 of the Law of Ukraine «On Privatization of State and Communal Property», non-submission by the Buyer of documents or information required by this Law, submission of false information about himself by the Buyer, the Seller refuses the Buyer to conclude the Purchase and Sale Agreement of the Privatization Object.

\* It is included if the Privatization Object is a property complex of SOE

5.2. In case of a decision by the Seller to refuse to enter into a Purchase and Sale Agreement in accordance with the ninth part of Article 14 of the Law of Ukraine «On the Privatization of State and Communal Property», or the Buyer's refusal to enter into a Purchase and Sale Agreement of the Privatization Object, which is confirmed by the relevant act, the sale price paid by the Buyer is returned to the Buyer in accordance with the procedure established by the Cabinet of Ministers of Ukraine, except for the guarantee fee paid by the Buyer.

## **6. Changes to the terms of the Preliminary Agreement and its termination**

6.1. Amendments to the Preliminary Agreement may be made by mutual consent of the Parties, which is formalized by an Agreement on Amendments to the Preliminary Agreement, which requires notarization.

6.2. This Preliminary Agreement ceases to be effective from the moment of conclusion of the Purchase and Sale Agreement of the Privatization Object by the Parties, in the case established by section 5.1 of the Preliminary Agreement, or if the Purchase and Sale Agreement is not concluded within the period established by the Preliminary Agreement.

## **7. Grounds for exemption from liability**

7.1. The Parties are released from responsibility for non-fulfillment or improper fulfillment of obligations under this Preliminary Agreement in case of force majeure circumstances (circumstances of force majeure) that did not exist at the time of the conclusion of this Preliminary Agreement and arose beyond the will of the Parties, which objectively make performance impossible obligations stipulated by the terms of this Preliminary Agreement, and which are directly stipulated by the Law of Ukraine «On Chambers of Commerce and Industry in Ukraine».

7.2. The Party that cannot fulfill its obligations under this Preliminary Agreement due to force majeure must notify the other Party in writing within 5 (five) working days from the moment it became aware of their occurrence.

The Party notifies the other Party of the end of the force majeure circumstances (circumstances of force majeure) within 2 days from the day it became aware of their end. Subject to the fulfillment of the conditions specified in this paragraph, the duration of the term (period) of the fulfillment of obligations is extended for the duration of force majeure circumstances (circumstances of force majeure).

7.3. Proof of the occurrence and termination of force majeure circumstances and their validity period are the relevant documents issued by the Chamber of Commerce and Industry of Ukraine or regional chambers of commerce and industry authorized by it.

## **8. Dispute resolution**

8.1. All disputes arising from the performance of obligations under this Preliminary Agreement shall be resolved through negotiations between the Parties.

## **9. Anti-corruption provision**

9.1. The Parties define and confirm that they implement a policy of total intolerance to undue advantage, corruption, improper payments for facilitating or simplifying formalities in connection with the implementation of this Agreement, improper payments for ensuring a faster resolution of certain issues. The Parties are guided in their activities by the legislation aimed at preventing and avoiding situations, the subject of which is illegal profit and corruption in particular.

9.2. The Parties guarantee that they, their employees and authorized representatives are prohibited from offering, giving or promising to give any improper benefit (money, valuable gifts, etc.) to any person (including, but not limited to, officials, authorized persons of legal entities, government employees), as well as demand receiving, accepting or agreeing to accept from any person, directly or indirectly, any illegal benefit (cash, valuable gifts, etc.).

**10. Final provisions**

10.1. Expenses related to the preparation of documents for the notarization of the Purchase and Sale Agreement of the Privatization Object, the conclusion of this Preliminary Agreement, and its notarization shall be borne by the Buyer.

10.2. This Agreement enters into force from the date of its signing by the Parties and notarization.

10.3. This Agreement is drawn up in full understanding by the Parties of its terms and terminology in the Ukrainian language in four authentic copies, which have the same legal force.

Two copies of this Agreement are kept by the Seller, one copy by the Buyer, one copy by the notary office that certified this Preliminary Agreement.

**11. Location (residence) and bank details of the Parties**

**BUYER:**

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*(signature)*  
Stamp

**SELLER:**

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*(signature)*  
Stamp (if available)

**Attachment No. 1 to the Preliminary Agreement**  
dated \_\_\_\_\_ 20\_\_\_\_ No. \_\_\_\_\_

**List of real estate that is part of the Privatization Object**

No. z/p	Name	Address	Total area (M sq.)	Registration number
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**Attachment No. 2 to the Preliminary Agreement**

dated \_\_\_\_\_ 20\_\_ No. \_\_\_\_\_

**List of vehicles included in the Privatization Object**

No. z/p	Brand	Model	Registration number	Release year
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**Attachment No. 3 to the Preliminary Agreement  
dated \_\_\_\_\_ 20\_\_ No. \_\_\_\_\_**

**List of real estate that is part of the Privatization Object or components of the Privatization  
Object, for which technical documentation must be prepared**

No. z/p	Name	Address	Total area (m sq.) (if available)
1.			
2.			
...			
...			