Getting the deal done

Many sellers underestimate the commitment in terms of time and resource that is required in order to deal with the sale of their business.

Any early indicative offers received for your business will almost certainly be expressed as 'subject to the results of satisfactory due diligence'. There is definitely a trend for buyers (in particular where backed by institutional investors or senior lenders) to request enhanced or more specialist due diligence reviews of discrete aspects of your business.

So, what steps can you, as the seller of a business, take to ensure that this process runs as smoothly as possible?

> **"As far as possible, you should ensure that the business has complete, accurate and up to date records."**

Early planning

As far as possible, you should ensure that the business has complete, accurate and up to date records. Any potential diligence issues, such as incomplete or unsigned contracts, should be identified at the earliest opportunity and rectified.

Engage your advisers as early as possible in the sale process to ensure that you have the right guidance on this process and any issues that need to be addressed.

Your team...

At the outset, you should decide who will be able to assist you in answering the various queries and gathering the supporting documents. A trusted team around you will help ensure that you can continue to drive the business during the time consuming due diligence process. It needs to be business as usual for customers, staff and suppliers!

Presentation of documents and replies

The buyer will usually ask for a number of supporting documents to support the due diligence exercise. There can often be hundreds of documents to collect and provide to the buyer.

To assist with this process, electronic data sites are now commonly used to present the relevant documents to the buyer. These online platforms give buyers, sellers and their advisers access to the documents in a manner which is at the seller's control. It also allows you to accurately record exactly what documents have been provided to the buyer and their team.

At Blake Morgan, we have developed a specialist online "data room" platform which we use on all deals. This can be specifically tailored to cover the circumstances of any particular due diligence exercise. We have found this to be a vital tool in ensuring that the due diligence process runs as smoothly as possible.

Heads of agreement

It is important that all key terms are set out in a non-binding "heads of agreement" document, to ensure that there is no misunderstanding as to the commercial terms of the deal and the matters upon which the buyer must be satisfied before completion can occur. Better that any misunderstandings are cleared up at the outset, than further down the line when fees have been incurred!

Timetable

Buyer and seller (along with advisors) should agree a clear timetable for the transaction, to include the due diligence exercise, preparation of draft legal documents and completion of the deal. This focuses the parties' and their advisors' minds and helps drive the process forward.

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Third Party issues

Identify at an early stage potential issues where you will need the co-operation or agreement of third parties – for example, bank lenders, debenture or charge holders, landlords or key customers or suppliers – and ensure they are ready, willing and able to assist as required so that they do not derail the sale process at a later stage.

"Buyer and seller (along with advisors) should agree a clear timetable for the transaction, to include the due diligence exercise, preparation of draft legal documents and completion of the deal."

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