



The Exit Process

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Letter of Intent

- In most respects the most important document in private transactions – treat it that way!
- Non-binding (with some exceptions) as a legal matter, but for practical purposes, the definitive expression of principal business terms
- More money is made (or lost) at this stage, seller's leverage is generally at its greatest, and process and endpoint can be better defined
- Level of detail varies, but best to agree on principal economic terms in advance (not just purchase price, but indemnification as well)
- **EXCLUSIVITY**

Key M&A Terms

- Transaction Structure (e.g., Merger, Stock Purchase, Asset Sale)
- Purchase Price; Adjustments; Earn-outs
- Covenants; Closing Conditions; Termination (if sign and close are split)
- Indemnification – Important Economic Term
 - Escrow; Liability Cap
 - Time Limits
 - Deductibles; Baskets
 - Exclusions from Limitations

- Management Agreements
 - Employment Agreements
 - Non-Competes
- Process Points
 - Due diligence
 - Consents and other approvals
 - Who needs to sign?
 - Solicitation of stakeholders
 - Certainty of closing is critical