

5 Things You Need to Know About Confidentiality Agreements

Confidentiality is a major concern in virtually every business. Quite often business owners become a little nervous when it comes time to sell their business; after all, business owners usually want to keep the fact that they are selling confidential. Yet, at the same time, business owners want to receive top-dollar for their businesses and sell that business as quickly as possible. In order to sell a business quickly and receive top-dollar, it is usually necessary to present the business to a range of prospects. The simple fact is that you can't sell a business without letting prospective buyers know that it is for sale.



All of this adds up to one simple conclusion: you will need a confidentiality agreement when selling a business. Let's look at a few of the key points your confidentiality agreement should cover.

1. Type of Negotiations

First, your confidentiality agreement should cover whether or not the negotiations are open or secret and exactly what kind of information can be disclosed.

2. Duration of Agreement

Your confidentiality agreement must specify exactly how long the agreement will be in effect. In most circumstances, it is prudent for the seller to seek a permanently binding confidentiality agreement.

3. Special Considerations

There are other considerations as well, for example, does your business hold any patents? A buyer could learn about your inventions during a buying process so you'll want to make sure that your confidentiality agreement protects your patent and copyright interests as well.

4. State Laws

Additionally, your confidentiality agreement must factor in different state laws if the other party is based in a state different than your own.

5. Recourse in the Case of Breach

Finally, your confidentiality agreement should outline what recourse you will have if the agreement is breached. Having a confidentiality agreement does not offer magical protection against a violation. However, a confidentiality agreement does ensure that prospective buyers understand the seriousness of the situation and that there are indeed severe consequences if the agreement is not followed.

It is important for all parties involved to realize that a confidentiality agreement is a legally binding agreement that is enforceable in a court of law. Thanks to a confidentiality agreement, a seller can share confidential information with a prospective buyer or M&A Advisor so that a business can be properly evaluated.

With so much on the line, it is vital that you have your confidentiality agreement drawn up by a legal professional. A good confidentiality agreement is an investment in your business. It is possible for a business owner to sell his or her business and do so with some degree of confidence that information shared with prospective buyers will not be disclosed.

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