

## Effectively Utilizing Confidentiality Agreements

The importance of confidentiality when selling a business cannot be over emphasized.

Expert M&A brokers and advisors build confidentiality protections into every aspect of the sale throughout the business sale process, carefully releasing appropriate information to the appropriate people at the appropriate time. One piece of the protection is the confidentiality agreement.

Each year businesses are damaged by failing to address confidentiality from day one when selling a business.

What should have been great deals are diminished or even destroyed due to a failure to obtain proper agreement to confidentiality. This essential contract can prevent many potential problems.

These issues range from employees discovering that a business is going to be sold and quitting; key customers learning of the potential sale and taking their business elsewhere; vendors becoming worried and placing the company on COD; and competitors hearing of the sale and causing problems in the market place. Needless to say, issues such as these can stand in the way of a sale successfully going through. Maintaining confidentiality throughout the sales process is of paramount importance.

Utilizing a confidentiality agreement, often referred to as a non-disclosure agreement, is a common practice and one that you should fully embrace. By using a confidentiality agreement, the seller gains protection from a prospective buyer disclosing confidential information during the sales process.

There are many and diverse benefits to working with a M&A Advisor; one of those benefits is that M&A Advisors know how to properly use confidentiality agreements and what should be contained within them.

Originally, confidentiality agreements were utilized to prevent prospective buyers from letting the world at large know that a business was for sale. Today, these contracts have evolved and now cover an array of potential seller concerns. A good confidentiality agreement will help to ensure that a prospective buyer doesn't disclose proprietary information, trade secrets or key information learned about the business during the sales process.

Creating a solid confidentiality agreement is serious business and should not be rushed into. They should include, first and foremost, what areas are to be covered by the agreement, or in other words what is, and is not confidential. Additional areas of concern, such as how confidential information



will be shared and marked, the remedy for breaches of confidentiality and the terms of the agreement, for example, how long the agreement is to remain enforced, should also be addressed.

A key area that should not be overlooked when creating a confidentiality agreement is that the prospective buyer will not hire any key people away from the selling company. Every business and every situation is different. As a result, confidentiality agreements must be tailored to each business and each situation.

When it comes to selling a business, few factors are as critical as establishing and maintaining confidentiality. The last thing any business wants is for its confidential information to land in the hands of a key competitor. M&A Advisors understand the value of maintaining confidentiality and know what steps to take to ensure that it is maintained throughout the sales process.

*About TOGA, The Oil & Gas Advisor:*

*The Oil & Gas Advisor's team of M&A Brokers and advisors specialize in selling businesses related to the oil, gas, and energy industry. Clients include manufacturers, distributors, services, construction and logistics firms. TOGA is USA's expert in selling propane companies. Since 1987, they have been investment banking merger and acquisitions advisors, providing certified business broker and intermediary services. TOGA's experts are award winning industry leaders with offices in Texas, Oklahoma and Pennsylvania.*

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