



# Myerson Corporate

Our guide to selling a company

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# Welcome

We understand the complexities of modern life and the importance of taking care of your business interests. So it's a deep source of satisfaction that so many businesses choose Myerson as their trusted adviser, from assisting with day to day commercial issues, to advising on growth strategies, investment and business sales.

## Why Myerson?

At Myerson, we put our clients and their business at the heart of everything we do, establishing long term relationships, acting as trusted advisers.

We are proud to be ranked as 'Top Tier' in the prestigious international directory **The Legal 500**, and commended by The Times 'Best Law Firms 2019'. Therefore, you can rest assured you will receive a high quality and truly bespoke service.

Our corporate clients include those with local, national and international business interests across a wide range of sectors including; technology, creative and media, private healthcare, education, charities, manufacturing, retail and leisure, fashion and textiles, agriculture and professional services.



# How We Work.

Every client is different, and we are here to support you every step of the way.

**Personal, Partner-led Service.** Our most experienced solicitors get to know you and your business inside out. We strive to become your trusted advisers, providing added value and most of all, a genuine, personal service.

**The Highest Level of Expertise.** Combining commerciality, practicality and legal expertise enables us to deliver every time. From employees to corporate structures, our solicitors are always at the forefront of new business practice and sector specialisms.

**A Team You Can Trust.** You're in safe hands. We help clients nationwide with complex business matters and issues on a daily basis. You can rest assured that our expert team knows its stuff!



# Your Solicitors



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The solicitors that will be working with you are specialists.

All the solicitors in our Corporate Team are specialists and have a detailed understanding of selling companies and how sales should be documented to best protect you and your interests.

Your team of solicitors will provide practical advice and work closely with you, so you can concentrate on what's important, running your business.

You can find out more about our Corporate Team by clicking [here](#).

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# Selling a Company

Selling a company can be a minefield, so we've created this guide to give you a flavour of what's involved and how we can help you along the way.

## The preliminary stages

### Confidentiality agreements and lock-out agreements

Preliminary stages will largely concern negotiations over price. However, if you are selling your company, you should insist that any potential purchaser signs a confidentiality agreement as early as possible.

You should also give serious thought as to when to disclose sensitive information such as details of customers.

A potential purchaser may also ask you to sign a "lock out" agreement which will prohibit negotiation with others. Whether you agree to this depends on the commerciality and amount of interest from potential purchasers.

### Don't forget to consider your tax position

Sellers need to carefully consider their tax position prior to a sale to establish whether it is possible to do any pre-sale tax planning.

In addition, sellers should ensure that the Company is in the best possible condition for sale, for example, ensuring the Company's statutory books are up to date and locating title deeds and other documents of title.

We regularly work hand-in-hand with accountants and tax advisors to ensure our clients are in the best position prior to selling their companies.

# Due Diligence

Due diligence is a request (a shopping list) from the purchaser for full information about your Company.

The purpose of due diligence is to extract information about the Company and identify any risks of the acquisition.

Generally, the purchaser's solicitor will provide a due diligence questionnaire which can be quite long. We will happily go through this with you to help you answer the questions and provide the requested information.

## The sale and purchase agreement

The sale and purchase agreement is traditionally drafted by the purchaser's solicitor and is the key agreement which documents (amongst other things):

- the sale of shares;
- the calculation of the purchase price (including any earnout and adjustments) and its payment, including security for any deferred consideration;
- the warranties and indemnities and any limitations on them; and
- non-competition covenants from sellers.

Our specialist solicitors will negotiate the terms of the sale and purchase agreement on your behalf, ensuring that your interests are best protected as well as liaise with you every step of the way.



# Employment

Assuming that the shares of the Company are purchased (as opposed to business assets) no serious immediate employment problems should arise, as existing service contracts need not be disturbed. However, new service contracts may need to be negotiated if any of the existing directors of the Company are to remain. Our expert **employment solicitors** will form part of your team and deal with any employment aspects that may arise.

## Warranties & the disclosure letter

Warranties are statements (in effect assurances) given by the seller to the purchaser in relation to the Company and cover a wide range of areas including:

- the commercial aspects of its business, including its contracts and IPRs;
- any properties;
- its financial and tax position;
- its employees;

Warranties have three main purposes for a purchaser:

- to obtain disclosure;
- to provide protection if some undisclosed liability arises; and
- to shift the risk on to sellers for unknown liabilities.

The purchaser cannot claim for breach of warranty where a seller has made a proper disclosure (in a disclosure letter).

We will draft and/or negotiate both the warranties and the disclosure letter and bundle of evidence for you. This can take quite some time, however, given the value of disclosing, it is well worth taking the time to complete in as much detail as possible.

Where a seller makes an unwelcome disclosure, the purchaser has various choices - accept it, insist on reducing the price, ask for an indemnity (which shifts the risk back to the seller) or, in an extreme case, withdraw from the deal.

# Indemnities

There are two main differences between warranties and indemnities:

- a purchaser can claim under an indemnity (but not a warranty) where the purchaser knew at the time it was given that there might be a claim; and
- damages under an indemnity are easier to establish because an indemnity allows a specific sum to be claimed.

Indemnities protect the purchaser in respect of certain negotiated items, including those against which seller has disclosed. In addition, a seller provides an indemnity in respect of the Company's taxation up to completion and certain pre-completion events (subject to exceptions).

## Limitations to Warranties and Indemnities

The warranties and, sometimes, indemnities are subject to limitations. They are negotiated afresh for each deal. However, there are some usual limitations, the principal ones of which are:

- a cap equal to the purchase price (or, in some cases, a percentage of it) on the seller's liability;
- a threshold below which the purchaser cannot claim;
- that claims must be made within a certain period after completion (save in the case of fraud, wilful neglect or default).





# Don't just take our word for it...

*"Their response time and communication is excellent and I would have no hesitation in recommending Myerson in the future."*

*"The legal team have the rare ability to combine strong legal knowledge, procedural and strategic acumen but delivered with client care and overwhelming compassion."*

*"We would be very happy to recommend the team at Myerson. Faultless."*

*"Your professionalism, efficiency and pragmatism are admirable."*

*"I have total confidence in the advice and support I received."*

To view more Myerson reviews visit our Review Solicitors page by [clicking here](#).



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# You're in safe hands!

If you would like further information about how we can help you sell your company, or if you have any questions, please don't hesitate to contact a member of our Corporate Team today.

**Call: 0161 941 4000**

**Click: [myerson.co.uk](http://myerson.co.uk)**

**Email: [lawyers@myerson.co.uk](mailto:lawyers@myerson.co.uk)**

Because  
life is rarely  
**black and  
white.**



myerson



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