Driven

NADA MANAGEMENT SERIES BM44

A DEALER GUIDE TO

Buying and Selling a Dealership

NADA
NATIONAL AUTOMOBILE DEALERS ASSOCIATION

BM44

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A DEALER GUIDE TO

Buying and Selling a Dealership

Introduction

Buying or selling a dealership is a complicated process.

It is difficult, time-consuming and risky.

For buyers, a dealership can be a profitable investment. it's also a capital-intensive investment, often involving millions of dollars and multiple considerations, not least of which is the necessity for OEM approval.

For sellers, letting go of a business can be highly emotional. The dealership may represent a life's work and legacy. Family members working in the dealership will be affected by a sale, as will key employees who helped build the business.

For a successful acquisition as for a successful sale, both buyers and sellers need help.

Recruiting professional advisors is near the top of any list for both buyers and sellers of dealerships.

This guide does not aim to replace the accountants, attorneys, appraisers, or licensed brokers you will need as a buyer or seller. That effort requires a carefully selected team of advisors who are experienced in buy-sells.

The guide does aim to map out the process of buying a dealership and selling a dealership from the beginning, when perhaps you're only thinking about an acquisition or sale, to setting goals and expectations, negotiating agreements and completing due diligence—right to closing and post-closing. It aims to flag pitfalls and raise the questions you need to ask for a successful transaction.

There are unique aspects to the buying process, as there are for the selling process. We present both sides of a transaction, recommending that, potential buyer or potential seller, you read the entire guide and put yourself in the other's shoes at each point in the process. The understanding and empathy you will gain from that exercise may help ensure success.

How to Buy a Dealership: A Guide to the Process

Buying a franchised auto dealership can provide an attractive return on investment, higher than many other asset classes such as stocks, bonds and real estate. Adding a dealership to an existing group shows growth, which can help attract and retain talent. And larger dealer groups may outperform single dealerships as they can leverage fixed costs and better serve customers. But acquiring a dealership is difficult, time consuming and risky. Success requires finding the right dealership in the right location at the right price. Success requires a careful strategy and follow-through.

STRATEGY PHASE

Develop Your Strategy

So, you've decided to buy a dealership. Before you enter the market, develop an acquisition strategy to help focus on stores where you can be successful and avoid those that pose too much risk. By establishing a strategy and sticking to it, you will save time and money and increase your odds of making a successful acquisition. Let's take a look at the factors to consider as you develop your strategy.

BUDGET. Determine how much money you have to invest. Dealerships are capital-intensive, ranging in value from a few hundred thousand dollars to over $100 million. The cost of a dealership includes three basic components: the assets needed to operate the dealership, the goodwill and franchise rights (commonly referred to as blue sky), and the land and buildings, if acquired as part of the deal. Since most dealership acquisitions are structured as asset purchases, most liabilities are excluded.

Given the high cost of a dealership, you will likely want to finance a good portion of the price. Lenders will provide different terms for different asset classes.

Using the typical percentages on the chart below, we can estimate the cash needed to purchase an example dealership. The dealership is making $1.5 million in adjusted pre-tax profit, has a minimum working capital investment requirement of $1.5 million as set by the OEM, has $300,000 in fixed assets, and the real estate has been appraised for $9 million. You have agreed to pay a 5.0x blue-sky multiple for a total of

Assets Purchased:	Typical Financing
New-Vehicle Inventories	100%
Working Capital — Includes used cars, parts and capital to fund the operations. Every dealership has a minimum working capital guide, established by its OEM, that a dealer must fund in order to be approved. (Note: used cars can be financed, but lenders prefer to see buyers fund the minimum working capital requirements with 100% equity.)	0%
Fixed Assets — Includes the long-term assets used in operations of the business (e.g., furniture, signs, shop equipment).	50%
Goodwill (Blue Sky) — Financing varies according to the existing cash flow of the business, the buyer's reputation, the type of lender (captive or commercial) and the amount of other assets that can serve as collateral. In many cases, lenders are willing to provide 3x trailing adjusted annual EBITDA*, or 50% of the blue sky amount. There are some captive lenders that can provide higher levels of financing for blue sky, even up to 100%, although this is not common.	3.0x EBITDA or 50%
Real Estate — Lenders typically finance 80-85% of the appraised value using a 5-10 year note and a 20-year amortization.	80%

**Earnings before interest, taxes, depreciation and amortization*

Example Dealership	Average Transaction		
Assets Purchased:	**Financing**	**Purchase Price**	**Equity Investment**
New-Vehicle Inventory	100%	$9.14M	$0.00M
Working Capital	0%	1.50M	1.50M
Fixed Assets	50%	0.30M	0.15M
Goodwill (Blue Sky)	50%	7.50M	3.75M
Real Estate	80%	9.00M	1.80M
Total	**76%**	**$27.44M**	**$7.20M**

$7.5 million in blue sky, plus book values for the other assets and appraised value for the real estate. The table above estimates that you would need $7.2 million to purchase the dealership and related real estate.

Once you know your budget, you can begin to target opportunities in your price range.

SINGLE STORE OR GROUP. Your budget will help determine whether you should look for a small or large dealership, or even a group of stores, but there are other factors to consider as well. Dealers are usually willing to acquire single stores in their current markets for ease of oversight. Larger dealers might also be interested in buying a group of dealerships if they like the brands and location. A group provides opportunity to add significant profit in a single transaction. A group also offers greater diversification of brands. Many experts believe that larger dealer groups are likely to perform best, as they may be able to leverage fixed costs and better serve customers. But operating a group can also add significant complexity. It means adding potentially hundreds of employees, several new GMs, new OEM relationships, possibly a platform leadership team and significantly more debt.

LOCATION AND DEMOGRAPHICS. For some dealers, an acquisition is most likely to be successful if it is located in the same city as their existing stores. They can more easily integrate new dealerships into the group, and they may even move some existing employees into key positions at the acquired stores. Many dealers who are successful in one town struggle when they move to new areas. Often, this is because it's more difficult for outside buyers to attract the best talent.

Also, an out-of-town buyer may not pick up on the nuances of different markets. Los Angeles, for instance, is known for low gross profits on vehicles, but its freeway system affords millions of people easy access to dealerships, so sales volumes can often be high. The dealerships that do best in Los Angeles have adopted a high-volume/low-gross sales strategy. A buyer coming from a smaller market may struggle in Los Angeles if expecting the kinds of grosses customary in a less competitive market. Conversely, a Los Angeles dealer buying a dealership in a small town might struggle for profit since there are fewer customers. A better strategy in small towns is low volume/somewhat higher gross.

A middle ground for some dealers is to consider, for example, any opportunity within a certain radius—say, two hours' distance—of their existing dealership.

Sometimes local market conditions might not be favorable for acquisitions. Perhaps there are no attractive local opportunities. Or real estate is expensive and the regulatory environment is burdensome. Dealers seeking to grow outside their current market need to focus their efforts according to their own strengths and weaknesses. Dealers who do well in small markets should consider acquisitions in markets comparable in size and demographics to their existing market, while metro dealers should seek similar metro markets.

Another key factor is the demographic/economic condition of a market. Population growth, which brings new customers to dealers each year, can vary widely in the U.S. Many of the publicly traded retailers adopted a “Smile Belt” acquisition strategy. They targeted states along the East Coast from Virginia south to Florida, then along the southern border out to California because population growth in those states was higher than the national average. There are other areas of high growth, as well. Buyers might consider these areas, but need to be prepared to pay more for growth locations.

Buyers need to be aware of state franchise laws, too, as they can affect the return on your investment.

UNIONS. The presence or likely presence of unions can have a big impact on dealership performance and valuation. Some buyers are comfortable with unions, while other buyers are not. Be cautious in acquiring a dealership with an underfunded pension liability, as that could create millions of dollars in liabilities that will eventually need to be paid. Even though you might succeed in having the seller pay the underfunded amount at closing, be aware that underfunding can occur in the future, which could be an issue when you want to sell.

BRANDS. Dealers have markedly different strategies in terms of brand preference. Many dealers target only one brand. Others target only luxury brands, or only mass market brands. These dealers have a specialized acquisition strategy. They have learned how to make above-average profits with certain brands and feel confident they can replicate their performance regardless of location. These dealers can pursue opportunities all over the U.S.

Dealers who want to stay in their local markets may target any brand that becomes available. They prefer diversification to specialization. Over time, these dealers can build a mix of franchises under their own group brand in the same area, thereby achieving both diversification of brands and concentration of dealerships. By diversifying, they can appeal to a broader swath of customers. With market concentration, they should be able to share inventories and gain consumer awareness, which should in turn allow them to attract and retain more customers. These groups also have an easier time attracting and retaining talent since they can provide more opportunities for advancement in a local market.

Different brands provide different financial results for dealers, generating profits ranging from less than $250,000 to more than $3 million per dealership location per year, on average. Among the reasons for better performance are fewer locations, highly desirable products, strong finance companies, and a favorable supply/demand balance. In addition, some OEMs are known for consistent support of and higher levels of partnership with their dealers and provide programs that align factory and dealer goals.

The brands that are easier to operate, generate more profit per location and have less risk per location are also more expensive than other brands, as measured by their blue sky multiples. You will need to assess

the risk/reward balance when evaluating which brand to buy. By focusing on a few brands, you can further narrow your search for acquisition targets.

STRONG PERFORMERS OR TURNAROUNDS. Another consideration for buyers is whether to acquire dealerships that are performing well, or those that are struggling. It is not brand or location that determines success, but management. Acquisitions need to be explored with future management in mind.

Dealerships that are performing well will be more expensive than underperforming stores, and there will be less opportunity for you to improve performance. In fact, there is a chance performance could decline post-closing if you change processes or lose talent. Struggling dealerships will be less expensive and provide you with more opportunity to improve performance, although there is no guarantee you will be able to lift profits. The best choice may have to do with your access to management talent. If you don't have extra management to put into a struggling dealership, you might be smart to pursue a dealership that is performing well. Conversely, if you have talented management you can place into a struggling dealership, then you might generate a higher return on investment by pursuing underperforming opportunities.

SUCCESSION. Finally, your strategy should factor in your eventual exit, including possibly passing on the business to family members.

ACQUISITION PHASE

Recruit Your Advisors

Acquisitions are expensive, complex, time consuming and risky. Talented advisors can help increase your odds of success. These advisors are typically covered by a non-disclosure agreement a buyer signs with a seller, so when such an agreement is in place, you are free to be fully open with your advisors with all information you receive.

ACCOUNTANT. Meet with your accounting firm to assess their abilities to help you analyze acquisition opportunities. If not confident in their expertise, consider talking to firms that employ valuation experts and transaction advisors. The right firm can help you value an acquisition opportunity, and identify potential upsides as well as potential risks.

BUY-SELL ATTORNEY. Meet with your law firm to determine their experience in drafting the agreements used in auto retail buy-sells. You want an attorney who is highly experienced in this specific field. The National Association of Dealer Counsel (NADC) directory lists attorneys nationwide with descriptions of their practice areas. The right attorney may be well worth the cost, in terms of increasing your odds of a successful transaction and reducing the chance of future problems.

LENDERS. Develop relationships with commercial lenders who are active in financing acquisitions. They will respond quickly to dealers they know are serious about growth and can give specific lending terms for deals you bring them. Banks will compete for your business, so be sure to contact more than one. Captive lenders are also aggressive and may provide even higher levels of blue-sky and real estate financing.

Build Your Acquisition Pipeline

Leading buyers consider dozens of acquisition opportunities for each one they purchase. But there is no public market for dealerships, so you must conduct yourself in a way that maximizes your access to the kinds of dealerships you want to buy. Here are some recommendations:

- Make your acquisition strategy clear to the market.
- Cultivate numerous referral sources, frequently. Dealership ***brokers*** are an excellent source; some focus on larger transactions and some on smaller. Usually, brokers are engaged by the seller, and you will likely be asked to sign a confidentiality agreement to gain access to information about a client. Some buyers also opt to engage brokers to search for dealerships. Before signing an agreement with a broker, be sure to understand all terms and fees. Other referral sources include ***banks, CPAs*** and ***attorneys*** who may know of dealers looking to sell. ***OEMs*** can also steer buyers to acquisition opportunities. Finally, ***dealer friends*** in 20 groups and state dealer associations may know of dealers interested in selling, or may be considering a sale themselves.
- Develop a reputation as a good buyer. Be responsive when approached with opportunities. Quickly decline those that do not fit your acquisition strategy; quickly pursue those that do. Respect confidentiality. Do not go to the OEM, do not ask dealer friends for their thoughts, do not tell anyone in your organization who is not critical to the process. Do what you say you are going to do. Sellers, brokers and advisors evaluate the way a buyer acts early in the process. They will avoid any buyer they think will be difficult or slow. Avoid re-trading the deal over minor items.

Sellers are hypersensitive to buyers' changing terms and may withdraw over a perceived offense. "Good" buyers may get the first call from sellers and may be able to buy for less money than dealers reputed to be difficult.

- Be in the market, every day. Even if you have made your wishes known to potential sellers, brokers and referral sources, the buyer who shows the most interest often gets the first call—sometimes the only call—regarding a dealership for sale.

Build Your Bench of Management Talent

Successful growth requires people as well as capital. Buyers struggle if they don't have a clear plan to manage a dealership post-closing. If buying well-run stores, do your best to build a relationship with the seller's key managers before closing to persuade them to stay on. If buying underperforming dealerships, you may plan on replacing the seller's key managers, particularly the general manager, with talented managers who are already on your team. New management can bring fresh energy, ideas and a successful culture to the acquired store. But it's also important to avoid harming your existing stores by stripping them of too much talent. To provide for growth and stability, many leading buyers overstaff one or more of their dealerships. They spend time and money grooming young managers to learn the processes and leadership skills needed to run a dealership. This cultivation of talent could mean less profit in the short term, but it significantly increases the odds of success over the long term.

Analyzing an Acquisition

When you evaluate an acquisition, ask yourself key questions before you proceed: Does the dealership fit your acquisition strategy? If so, how would buying it affect your cash flow? Finally, what is your desired rate of return on the investment? Your answers should drive the amount of money you would be willing pay a seller.

We have noted in the "Budget" section above that most dealership acquisitions are structured as asset purchase agreements. The buyer agrees to purchase certain assets from the seller and the seller is responsible for satisfying almost all liabilities. The three major assets that you must analyze are tangible assets, real estate and blue sky.

We've described how tangible assets—which include vehicle inventories, parts, and fixed assets—are often valued. In addition to the assets to be purchased from the seller, you will need additional operating cash—working capital. As noted above, almost every dealer statement notes how much working capital is necessary to attain OEM approval.

Let's, then, look at real estate. Many buyers want to purchase the dealership real estate because debt service on the mortgage is typically less than rent. In addition, they're more comfortable investing in a property they own and finally, having the flexibility to relocate, expand, cut or boost the rent, or make other changes. Some buyers are willing to lease the real estate if they want to maximize their overall investment returns, have limited capital, or can negotiate a lease with below-market rent.

The value of dealership real estate is usually determined via an appraisal process. Sometimes, a seller gets an appraisal before going to market and a buyer accepts that value. But more often, the value is set by the real estate appraisal firm retained by the buyer's lender. The value can also be set as an average of the buyer's and seller's appraisals. Or the parties could simply negotiate a value that both are willing to accept.

OEM facility requirements are a significant and frequent complication during acquisitions. Almost every OEM has specific guidelines as to their stores' appearance and capacity, including numbers of service stalls and parking spaces. Dealers often find these improvements to be costly, disruptive and without adequate return on investment. The buy-sell process provides OEMs with a way to get upgraded facilities. Many OEMs essentially require buyers to agree to upgrade the facilities as a condition of approving their applications. Because this news would come far down the road of buying a dealership, after you have expended significant effort and money, you should have a clear idea if a facility meets OEM requirements for capacity and image early in the acquisition process. Most OEMs provide dealers with a written assessment of their facilities and whether they comply with OEM requirements. This is one of the first documents a buyer should request.

The cost of image compliance may range from a couple hundred thousand dollars to over $30 million for new buildings and additional acreage. You may need to retain an architect and a trusted contractor to get an accurate estimate. Once you have the figures, you need to consider how to handle the cost of the additional facility investment with the seller. One way to approach the issue is to categorize the expenditures:

- ***Maintenance capital expenditures*** include the facade, floor tile, lighting, etc. While enhancing the dealership's appearance, they do not change performance. These expenditures typically add little to no future profit. It's reasonable to request a discount off the blue sky or real estate price to be applied to these expenses. You can demonstrate to the seller how these expenditures affect the deal, explaining carefully that you are trying to make the deal work (rather than reduce the selling price).
- ***Expansion capital expenditures*** include adding service capacity, parking, showroom space, or a relocation. These improvements can increase profits so they can have a positive return on investment. In these cases, buyers often absorb the future investment requirements with little to no discount.

To assess the amount of blue sky to offer, begin by reviewing the seller's historical performance and earnings. There is a lot of noise in dealership financial statements as dealers almost always have non-recurring income and non-recurring expenses that need to be pulled out of the income statement. The list of these adjustments can be lengthy, sometimes including personal expenses or unrelated income. At the end of the review, which can require extensive work, you will arrive at the figure you need: adjusted pre-tax profit. And you will have a much clearer view of the profit the dealership generated through selling and servicing vehicles. (Later in the process, in due diligence, a buyer would be wise to retain a CPA firm or another entity that has similar expertise to confirm all the adjustments to the financial statements.)

Once you have calculated adjusted pre-tax profit, you can begin to develop projections of future profits. Your projections should be realistic and based on macroeconomic trends, local demographic and economic data, key metrics provided by the OEM and other providers of store operating data (such as 20 groups), and the performance of your existing stores. Many buyers start with new-vehicle volume. If current sales are lower than the OEM expects—and you are confident you can make operational changes post-closing to lift volume—you might project higher volume. If current sales are higher than the OEM expects, you might be cautious and project lower sales. Other key variables are used-vehicle sales volume, gross profits from vehicle sales and F&I, number of repair orders per unit, profits on parts and service work, and the expense structure of the dealership. There are dozens of variables to consider.

A few words about projections: Most buyers do at least three years of projections and assume modest growth thereafter. Also, know your working capital requirements at the time of closing, as well as potential increases if your projections include material

growth. Be sure to stress-test your acquisition model. What does the store look like in a down market? What happens if your profits fall, or expenses increase? Stores that have a high rent factor or low fixed operations will suffer disproportionately if there is an economic shock that reduces vehicle sales.

Once you complete your projections and determine your desired rate of return, you can begin to calculate the amount of blue sky you would be willing to pay. There is no correct or standard amount of blue sky and sometimes the amount you would pay varies significantly from the amount another buyer would pay. Two buyers might have different perceptions of the future balance of profits and risks, more or less operational synergies, or simply different return on investment requirements. Also consult NADA's *Driven* guide, A Dealer Guide to Dealership Valuation.

TRANSACTION PHASE

How to Make an Offer

Because of the size of the transaction and the importance to the seller, who may be parting with his life's work and perhaps his family legacy, it is critical that a buyer be clear, organized and disciplined when making a purchase offer.

We believe you should submit a written Letter of Intent (LOI) that clarifies the basic business terms of the acquisition, including the amount of blue sky, the way the real estate will be valued (if being acquired), the value of other assets you intend to purchase, the next steps in the transaction, and any other significant terms. Buyers often have legal counsel review the terms of an LOI before submission to a seller, but more experienced buyers often create and submit LOIs without the involvement of legal counsel. The point of the LOI is to prevent a misunderstanding on pricing that can derail a transaction later. And the LOI contains an important provision for the buyer: a 30- to 60-day period of exclusivity during which the seller cannot talk to other potential bidders. This is the period when you will begin to spend money on attorneys to negotiate the definitive agreements, and possibly on consultants to assist with due diligence. You may also want to spend this time locking down your financing commitments.

Here are a few other suggestions:

- Explain your offer. As the buyer, explain how you see the seller's current and historical earnings, the cost of any real estate investments you expect to make, and the risks you are taking. Put the seller in your shoes and show that you are trying to make an offer that gives you an adequate ROI.
- Be willing to change your mind. After explaining your offer and getting the seller's reaction (sellers almost always want more), ask the seller what you might have overlooked in your analysis and in the way you structured your offer. It's possible you missed addbacks, overestimated OEM facility requirements, or made other errors that incorrectly reduce your expected ROI.
- Don't submit below-market offers. If you can't offer a price close to market terms, it's best not to make an offer at all. A below-market offer will hurt your reputation, and you will only attract troubled assets.
- Be willing to walk away. If a seller has a much different perspective on value than you do, move on to the next opportunity. It's a good idea to stay in touch and to remain on good terms with the seller, who may not get the desired price from other buyers and could come back to you.

Sometimes an LOI is not necessary and can slow down a transaction. If you have reached a verbal agreement with a seller on price, you can choose to go right to an asset purchase agreement. This method works best with experienced buyers and sellers who understand asset purchase and real estate agreements. Some experienced buyers may choose to negotiate the amount for blue sky and how real estate will be valued, and then skip the LOI phase and go right to negotiating the definitive documents. This method can shorten the overall length of the negotiation, but it does have risks. You might end up spending more on legal fees if there is a lot of negotiation on the values of the assets. And if you can't come to terms on the economics, you will have wasted that money. Also, without an LOI, you may not have an exclusivity period, giving the seller the ability to negotiate with other parties at the same time.

How to Negotiate the Definitive Agreements

If you have negotiated an LOI, then the key business terms will have been agreed to, but there remain dozens of other issues that need to be negotiated and set forth in the definitive agreements—the final, binding agreements—between the buyer and the seller.

The buyer typically drafts the first version of the asset purchase agreement (APA), which sets forth the binding business and legal terms of the purchase of the dealership entity. In addition to defining the amounts to be paid for the assets being acquired, the APA establishes the representations, warranties and indemnifications between you and the seller. These elements of the contract serve primarily to protect you against the numerous risks that can occur after closing. These terms also describe what will happen if there is a violation of the agreement. You need experienced legal counsel to carefully guide you in negotiating the APA. You want as much protection from risk as possible, while not pushing so hard that the seller decides to move on to another buyer. Negotiating the APA typically takes about a month after the buyer and seller agree on the basic business terms or sign an LOI.

Other required documents involve the dealership real estate—a lease if you are renting the property, or a real estate purchase agreement (REPA) if you are buying it. A REPA is typically signed at the same time as the APA; a lease is signed at closing.

We suggest you adopt some key principles in the negotiation:

- Do not become emotional.
- If the seller rejects proposed language in an agreement, ask for an explanation. If a seller asks you about a request of yours, have a good explanation.
- Don't try to prevail on every issue; focus on what is important to you.
- If progress on the definitive agreements is slow, get together in person. That way, you can build trust with the seller, more clearly understand the issues and accelerate the time to reach an agreement. Avoid pushing drafts back and forth without resolution.
- Be patient. Understand that the seller might not have sold a dealership before.
- Be prepared to walk away if a seller refuses to provide you enough comfort relative to the price you are paying for the business.

Due Diligence

Due diligence is the process of finding out about the dealership(s) you are buying. It includes a review of historical financial performance and confirmation of any adjustments to the financial statements. Due diligence also delves into legal, IT, HR and operational matters. The real estate due diligence focuses on environmental conditions, any easements or restrictions on the property, and the physical condition of the facilities. It may also assess whether a dealership meets OEM requirements and, if not, the cost to become compliant. Your goal in due diligence is to uncover any issues that will impair your ability to generate your expected ROI.

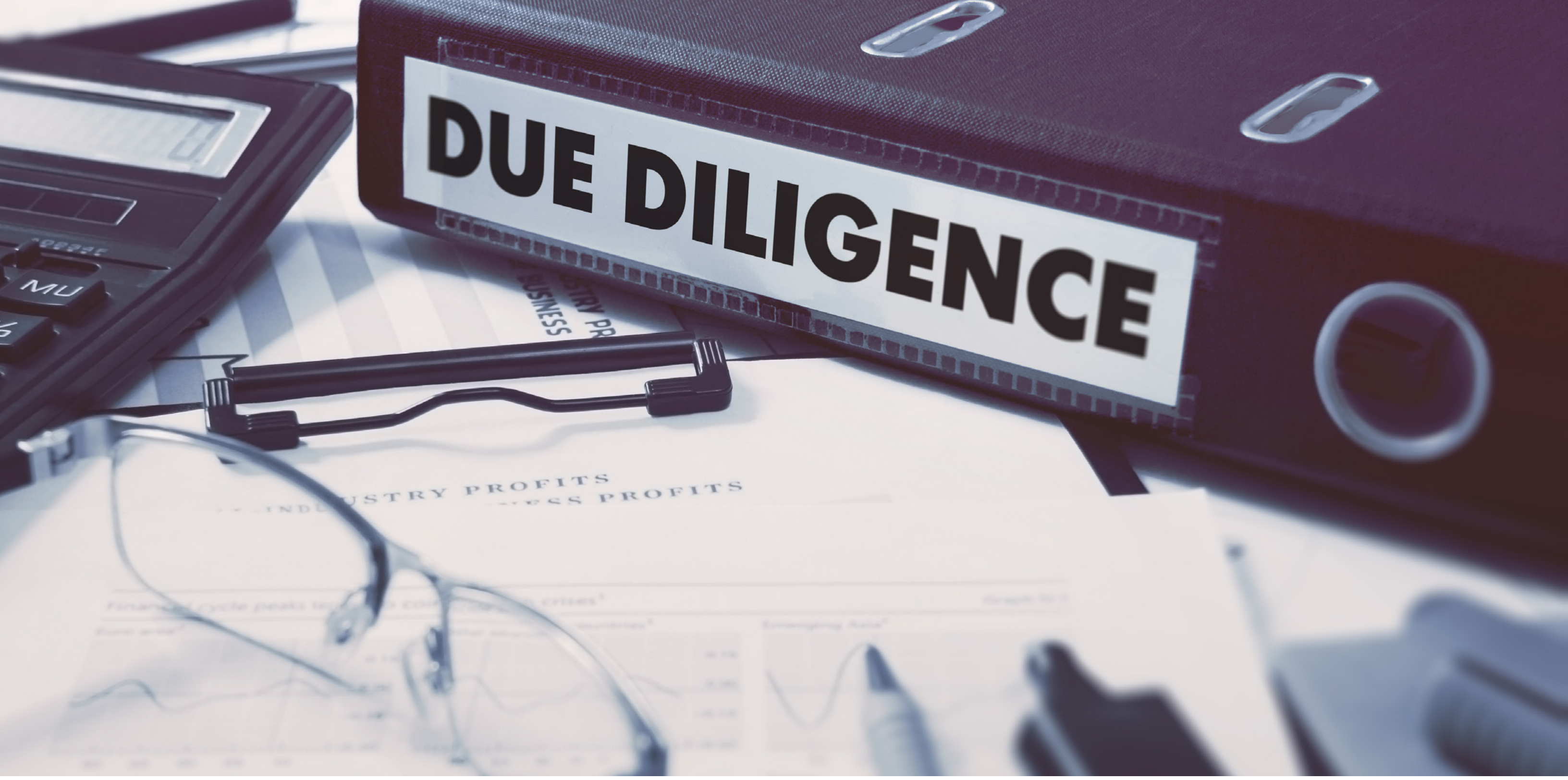
The timing of due diligence varies. Some sellers want to know that they have a solid deal before notifying the OEM(s), so they require buyers to complete diligence before submitting the definitive agreements to the OEM(s). Other sellers who want to close quickly allow buyers to begin diligence once a price has been agreed to, even if the definitive agreements have not been finalized. It's best for buyers if the due diligence period is as long as possible as that provides more time to uncover unknown conditions.

The list of issues uncovered in due diligence could fill a book. We have seen misstated financials, environmental contamination, toxic work environments, undisclosed add-points, incorrect zoning, severely aged inventories, and undepreciated assets. All of these issues negatively affect value, so you need to discover them prior to closing or risk overpaying.

Bring your full team into this process and have them sign confidentiality agreements to keep chatter in the market to a minimum. Know as much as you can about the target dealership so you are aware of risks and can devise a post-closing plan. Some buyers create a deal binder that covers historical performance, projected performance, IT, legal, HR, variable operations, F&I, fixed operations, facilities, etc. Anyone who has a concern should voice it prior to acquisition.

We highly recommend retaining advisors to assist in due diligence.

- An accountant or other financial advisor can focus on the financial aspects of a transaction, while a lawyer can review contracts and the many other documents related to the transaction. These advisors, provided they have buy-sell experience, know what questions to ask and how to interpret the responses. Your operations team can address any functional issues. If you discover any problems in the financial statements or adjustments that will affect future profits, you can request a discount to blue sky. If there are problems with fixed assets' condition, or assets are missing, you may request a similar price adjustment.



- A real estate attorney should conduct the real estate due diligence. The buyer needs to know that the property is suitable for its intended use, and if there are any encroachments, easements or liens that will affect the buyer post-closing. If any issues are uncovered, you can request they be corrected prior to closing.
- A property inspection company can confirm that the buildings are in good working condition. If the building needs repairs, you can request a credit at closing or ask the seller to make the repairs prior to closing. Remember the appraised value for the building already calculated depreciation; expect some rough edges on older structures.
- An environmental engineering company can conduct a Phase 1 Environmental Site Assessment of the property to report on potential or existing environmental contamination. If the Phase 1 report finds potential contamination, a Phase II Environmental Site Assessment is in order. Phase II is much more extensive and likely includes drilling core samples around the property to determine the existence of petroleum products or other hazardous waste below ground. It is not uncommon for dealership properties to have some petroleum contamination. If such is found, you can ask the seller to pay for remediation or you can take a credit against the value of the property as compensation for taking possession of a contaminated property. Your real estate lender will likely require an appraisal and that the property be "clean" by closing or shortly thereafter.

In some transactions, buyers discover problems that the sellers were not aware of. In other transactions, buyers uncover issues that the seller knew about but did not disclose. Some buyers request a reduction in purchase price for every problem they find, using due diligence as a way to reduce price; that's a way to develop a bad reputation. Other buyers accept some negative surprises as a cost of doing business.

Best case, due diligence will confirm what a seller has told you and provide you with helpful information for operating the dealership post-closing. But if issues should be discovered, just be factual rather than critical. Most sellers take pride in their businesses and understand they will have to remedy any significant problem in order to move forward.

The due diligence process can be highly stressful for sellers. You are probing for problems and the seller knows the findings can hurt purchase price or reduce the likelihood of closing. Sellers also worry that their employees may become suspicious when strangers show up doing surveys and environmental work. No seller wants to lose employees because they fear a change in ownership. You need to be patient and courteous and arrange all visits in advance. Take great care to conduct diligence as confidentially as possible.

Due diligence on the dealership typically takes 30-60 days, while diligence on the real estate can take longer if a Phase II assessment is needed or if there are title complications or easements.

Applications for OEM Approval

To be approved to acquire a dealership, you will need to complete an application that will be carefully reviewed by the OEM. So once the necessary documents are signed by both parties, the seller will send the definitive agreements to the OEM and request the OEM to send an application to you.

The application will request information such as a business plan, financing plan, how the dealership will be managed, etc. The OEM will focus on your sales performance and customer satisfaction ratings at all of your existing dealerships. The application establishes your credentials as a desirable buyer for the OEM's franchise, and the OEM will review it to assess your qualifications.

If you are currently below OEM guidelines on any of the ratings, work hard to get into compliance before submitting an application. Otherwise, the OEM may reject your application and you will have wasted significant time and money. What may be even worse, you may have created a reputation among other dealers, attorneys and sellers' CPAs that you are "unapprovable." A good reputation in the dealer community is essential, as no seller wants to go through a process with a buyer who is likely to be rejected.

There are firms that specialize in the technical aspects of the application process including most CPA firms.

If your existing dealership meets or exceeds your OEM's goals there is a good chance the OEM will support your effort to buy the new dealership. If not, the OEM may seek to exercise a "right of first refusal" (ROFR) in the states where it is legal to do so. A ROFR allows the OEM to offer the new dealership to dealers they prefer on the same terms you have negotiated. To avoid a ROFR, be sure your application clearly demonstrates your strengths. If you have weaknesses, address them, as exceptional circumstances might explain underperformance. For instance, if an existing OEM has given you too much territory, or if you own a domestic dealership in a city that is heavily import, your sales effectiveness numbers might be low. This doesn't mean you're an underperforming dealer and should not disqualify you from purchasing another dealership.

As we noted above, an improved facility is a common ask from an OEM during a buy-sell. Through your research up to this point, you already know what is needed to make the facility image-compliant. But sometimes, the OEM will require a larger investment than you expected, or ask you to sign off on a pending add-point or relocation of an existing store closer to the one you are purchasing. These more substantial asks can significantly increase costs and/or reduce the future profits of the dealership being acquired. You can negotiate with OEMs to reduce or eliminate these requests, you can accept them, or you can walk away and terminate the agreement with the seller. Your attorneys can help you understand what requests the OEMs are allowed to make during the approval process.

During the approval process, you will likely have meetings and discussions with the OEM. Some OEMs are quicker than others and some may even decline your initial application as a way to gain time for their internal review. Generally, you can expect the approval process to take at least 60 days after you submit the completed application.

CLOSING PHASE

Pre-Closing Activities

Though due diligence may be the most important pre-closing activity, there's much else to be done and it will take many weeks and should begin as soon as the APA is signed. New companies need to be formed; floorplan/real estate/blue sky financing must be arranged; licenses must be applied for. Bank accounts, insurance and vendors need to be secured. You'll have new hires, new pay plans, new websites and signage, and more. To manage all these activities, you need a pre-closing checklist such as the one provided in the appendix.

We suggest you focus on employees as soon as your application has been submitted to the OEM and the seller OK's your interacting with his staff. You will want to meet with the key managers to persuade them to stay on. Then, you should address all the employees to tell them that you *want and need* them to stay. Wise buyers will honor employees' pre-closing seniority for vacation, continue or improve health care and 401K contributions, and maintain current pay plans for at least 90 days. Maintaining stability is critical. While you will no doubt want to make some changes in personnel eventually, don't upset productive teams. Employees can go to work for your competitor, taking other talented employees with them. It can be hard to recover from the loss of just a few talented managers. We have seen high-performing stores become underperforming stores in just a few weeks when this happens.

Another key consideration is the dealer management system (DMS). If you are using the same system as the seller, you can likely terminate the seller's contract and apply your terms going forward, with no impact on employees. But if the seller is using another system, you have to decide if you want to assume the DMS contract or convert the store to your DMS. If converting, you'll need to train the seller's employees before closing or they won't be able to operate the dealership post-closing. The transition from one DMS to another can be disruptive and reduce profitability if not done correctly. Some buyers have had such bad experiences with converting that they only consider acquisitions that have the same DMS.

One issue that can create problems is used-car valuation. Most APAs call for buyers to purchase used vehicles from sellers at negotiated values. Since used vehicles are bought and sold—and depreciate—every day, you should appraise them in the final days pre-closing. As a buyer, your temptation might be to offer as little as possible so the profit can be as high as possible. But if you don't offer enough, a seller can sell the vehicles at auction, or to a wholesaler or another dealer, leaving you post-closing with a small inventory that will lead to a thin profit in your first month of ownership. A small inventory may make it harder to retain your used-vehicle manager and sales staff if they have little to sell. To protect yourself, be prepared to bring in enough inventory from other sources to have a strong start.

The parts inventory is typically done the day before closing. You and the seller will select one company to conduct the parts inventory and split the cost of this service. The company will use the terms negotiated in the APA when valuing OEM and non-OEM parts, supplies, miscellaneous inventories, etc. Every dealership has obsolete parts; you might make an offer for them or decline to buy them.

You will want to confirm that all of the key fixed assets are present on closing day.

It's a good idea to have a budget for unexpected expenses. You likely will have carefully calculated the costs of blue sky, real estate and the other assets you're buying. But be ready with an additional amount for unexpected expenses such as higher insurance costs, training expenses, rebranding expenses, and other unusual one-time costs. Be sure to have adequate capital to pay these expenses and maintain inventory levels, staffing and advertising post-closing so the dealership's performance remains strong.

Closing Day

Possibly the most important activity on closing day is finalizing the inventory and pricing of new vehicles, used vehicles, demonstrators and service loaners. Each unit needs to be located. This process is led by your staff and that of the floorplan lender. It is a time-consuming process so make sure the floorplan lender has adequate staff and time. Look through every new-vehicle invoice and capture the exact amounts of holdback, advertising credits, floorplan credits and other incentives already received or to be received by the seller. You need to check the mileage and condition of each vehicle to make sure it complies with the APA terms. Damaged units or units with a lot of mileage should be discounted per the terms negotiated in the APA.

Work-in-process must be accounted for, websites redirected, signs changed. Parts must be counted.

The closing statement is one of the most important documents in the transaction, but its preparation is typically rushed. A better plan is to begin preparing the closing statement weeks in advance to ensure you are tracking every asset category. You can roll depreciation on the fixed assets forward in advance of closing and you can add estimated values for the other assets you're purchasing. You should also work with the lender, any lienholders and the seller to organize the wire transfers in advance. Try to get as much of the closing statement completed as possible before closing day.

The buyer typically creates the closing statement and updates it throughout the day until it is approved by the seller and the wires are sent. Enlist your accountants, lenders, advisors and key people to review it carefully along the way.

Post-Closing

Even with lots of effort, a closing statement is rarely correct. Parts shipped to the new buyer can end up on the seller's parts account. The buyer might have purchased a vehicle, but it remains in the seller's inventory. To accommodate such situations, the APA usually establishes a true-up period of 60 to 120 days after closing so that buyer and seller can reconcile any incorrect payments.

The actions you take in the days after closing can have a big impact on your future success. Many acquisitions fail to deliver expected returns because buyers fail to onboard key employees or properly understand the competitive environment.

Spend as much time as possible in the dealership to better understand how it operates and the roles of all your key employees. Ask a lot of questions—of employees, of vendors, of customers. Typically, you'll find out things you did not learn in due diligence that will be important to future success.

Unless the store is in trouble with low sales and poor CSI, try to change as few things as possible for the first few weeks. As we noted above, stability is invaluable at this juncture. Many buyers like to focus on improving sales, but this can mean spending more on advertising, increasing new and used inventories and taking share from entrenched competitors. A faster and safer way to improve profits quickly may be to focus on F&I and fixed operations. F&I managers may be able to increase productivity greatly if they are given proper training and an effective F&I menu.

Fixed operations can also increase quickly by adding a service BDC, training service managers to sell more effectively, and applying for a higher labor rate.

If the store is in trouble, it likely makes sense to bring in new management quickly and train remaining employees on new processes to effect quick and positive change.

Six months after closing, call a meeting of all your advisors and key team members. Discuss what went well, and what you would do differently. Make those adjustments before looking for your next acquisition. You should be able to generate highly attractive returns on investment.

How to Sell a Dealership: A Guide to the Process

PREPARATION PHASE

The decision to sell a dealership is not an easy one for most dealers. Many have devoted their lives to building their businesses. Some had hoped to pass the dealership on to the next generation. Many dealers, indeed, come to the decision to sell their businesses after exhausting their succession plan: There is no family member willing or able to take over the business. But there are often family members working in the business whose lives may be affected by a sale. Before going to market, you should think through the ramifications of a sale for all the dealership's stakeholders, including family, key employees and management.

Another important consideration that needs to be part of your decision to sell involves your expected lifestyle after the sale. What do you plan to do? Will you continue to work at your other dealership(s)? Will you travel? Where do you intend to live? Will you move permanently to your vacation home? You need to think about the future—not only because you need a strategy for life after ownership. You also need to know the financial cost of your future: the amount of money needed to fund it. Which means you need to establish a financial goal for the sale of your dealership.

To determine if the business's market value meets or exceeds your financial goal, you must assess the dealership's value. This is where you'll need professional expertise.

As with everything in business, preparation is the key to success. Before moving forward with the sale of your dealership, you will need to consider many financial and personal factors, and bring together a team of experienced professional advisors. Let's begin with the team.

Recruit Your Advisors

Having a team of professionals who understand the intricacies of the dealership buy-sell process and are well-versed in auto retail transactions is integral to the success of a sale. Auto retail buy-sells are unlike other business transactions. Besides requiring the approval of the OEM, they also necessitate state licensing of the buyer. There are also many industry transaction terms and norms that are distinct from other industries. As such, working with experienced buy-sell advisors is key to a successful transaction.

Among the advisors required, you should select the following professionals to be part of your advisory team:

- **BUY-SELL (TRANSACTION) ATTORNEY.** It is imperative to select an attorney with experience in dealership buy-sells to assist with the sale of a dealership. The mistake some dealers have made is choosing to work with their trusted personal attorney who does not have this specialized experience, only to find their transaction stalls in the documentation/negotiation process. There are experienced auto retail transaction attorneys throughout the U.S., many of whom can be found through the National Association of Dealer Counsel.
- **LICENSED BROKER/BUSINESS APPRAISER.** To determine your business's worth in the marketplace, you must assess the dealership's value. A business appraiser or dealership brokerage firm can provide this assessment.* Working with an experienced and professional broker who has the required licensing to represent you in a sale transaction can be key to a successful sale. It is important to ascertain that the broker is licensed to sell dealerships in the state in which you operate. The broker must also be licensed to sell real estate or prepare leases if those are included in the sale. Working with an unlicensed broker adds risk to a sale and can provide the buyer with a right of rescission post-sale. Experienced brokers take the burden of the sale process off your plate, allowing you to focus on running the business and ensuring sales and profits remain strong throughout the sale process.
- **TAX ACCOUNTANT.** An experienced tax accountant can employ tax optimization strategies for the sale. This may be your existing accountant, if he or she has specific expertise in buy-sells. Strategies may include estate planning as well as using certain transaction structures to reduce the tax bill upon completion of a sale. Working on the tax situation in advance of a sale can result in a meaningful difference in the after-tax proceeds. It should be noted that tax attorneys can also be instrumental in structuring a sale to reduce the tax burden of a transaction.
- **WEALTH/FINANCIAL ADVISOR.** Working with an experienced wealth advisor to determine the required after-tax proceeds of a sale prepares you for your expected income post-sale, and ensures you have an informed understanding of your financial goal for a sale.

*For an introduction to this complex undertaking, see NADA's *Dealer Guide to Dealership Valuation*, a resource for dealers and their advisors who seek to understand the process of dealership valuation.

Financial Considerations

FINANCIAL GOALS AND VALUATION EXPECTATIONS

It is imperative to determine the financial goal of a sale before beginning the sale process. This is the time to sit down with a financial advisor and calculate the capital you need from a sale for estate and lifestyle needs. It's also the time to enlist a tax accountant for advice regarding tax mitigation strategies and the expected tax rate on sale proceeds. Spending time upfront to determine these key metrics will make the decision to sell a much easier one. Dealers who make the mistake of not seeking professional advice before going to market court disappointment: They often find their after-tax proceeds do not meet their financial goals. This is a scenario every dealer wants to avoid. Having a financial goal from the outset of the sale process is an important first step in preparing to go to market.

Before moving forward, you need to determine if the business's market value meets or exceeds your stated financial goals for the sale. To do this, you must assess the dealership's value, including its real estate. Here's where you need a business appraiser or dealership brokerage firm.

Key considerations in making this assessment concern the expenses and costs that you will incur pre- and post-sale. Among these are professional fees, finance chargebacks, taxes, and expenses the business paid on your behalf that you will now incur on a personal basis, such as health insurance. Also to be considered is the timing of your receipt of sale proceeds, as transactions often have funds that are held in escrow for a period of time post-sale. You should also take into account all debts that will be paid upon the sale and any prepayment penalties involved in those payoffs.

It is also important to review accounting methodologies within the business, as they can have a material impact on sale proceeds, particularly for new-vehicle inventories. For instance, buyers often purchase new-vehicle inventories net of incentives received. If a seller has already taken incentives into income before the sale, the seller will receive less money for the purchase of the new vehicles than is reflected on the business's balance sheet.

Contingent liabilities are another consideration. If you have programs that provide ongoing services to customers—tires for life, for example, or free oil changes or other marketing programs associated with customer retention—the buyer typically will require a credit against the purchase price to cover these contingent liabilities. In order to calculate the appropriate credit, sellers should work with their accountants to ensure they have accurately accounted for the appropriate reserve to cover the ongoing liabilities.

REAL ESTATE

In many cases, dealers' real estate is more valuable than their blue sky. As such, real estate is a critical asset in a dealership sale. Before selling a dealership, it is important to obtain a current appraisal—ideally from a nationally recognized appraisal firm—of the dealership property to be sold.

It is also a good idea to obtain a cost estimate for any required OEM image upgrades so that you can provide a buyer with a clear understanding of the construction costs post-transaction. Most OEMs require a buyer to agree to improve dealership facilities to the latest image standard as part of the buy-sell approval process. Many OEMS see the buy-sell approval process as an opportunity to require facility improvements. Even if the seller is not required to complete an image upgrade, the buyer may be held to a higher standard.

Some dealers prefer to lease the dealership property to a buyer, rather than sell it as part of a buy-sell. If that is your intention, you will need to determine a market rental rate for the property based on the appraised value of the real estate and current capitalization rates. It is important to understand the credit/default risk you are taking on by leasing the dealership property. Also, it is key to structure a lease to ensure it is marketable should you seek to sell the property (subject to the lease) to gain liquidity in the future. In general, OEMs will require a lease that allows the buyer to lease the dealership property for approximately 20 years when including lease extensions.

If you do not own the dealership property, review the dealership's lease and ensure it can be assumed. Most sellers will also want to ensure that they are released from any guarantees associated with their dealership property leases after a sale. To assure a successful sale, it's important to work with an experienced real estate attorney and licensed buy-sell advisor or broker so that you understand the legal ramifications of assigning or renegotiating a lease.

LONG-TERM CONTRACTS

As with a property lease contract, you may have other ongoing contracts that need to be assumed by a buyer as part of a sale. Before going to market, review all of your long-term contracts to determine:

- ***Cost of the remaining contract.*** If a contract needs to be assumed, you should understand the economics of the assumption as part of the buy-sell negotiation. In some cases, buyers are unwilling to assume large contracts, particularly dealer management systems (DMSs).
- ***Contract termination costs.*** You should understand the cost of terminating a contract if a buyer is unwilling to assume it. In the case of a DMS contract, the costs can be very significant and may affect a seller's ability or willingness to complete the sale.
- ***Ability to assume a contract.*** Some contracts are not assumable. If that is your situation, you will need to negotiate with the vendor regarding an assumption or a payoff of the contract as part of the buy-sell.

FINANCIAL PERFORMANCE

Before going to market, it is also imperative to have detailed adjusted earnings for at least the prior 36 months. You must have a clear accounting of addbacks and deductions to earnings. These financials will drive the pricing of blue sky and valuation. The more accurate your adjusted financials are, the more likely the sale will be a success.

Addbacks to income typically include the following, all of which are expenses the buyer would not incur post-sale:

- Owner's salary (if the owner is not performing the general manager function).
- Owner's personal expenses.
- Salaries of family members who will not remain with the store post-sale and whose functions will not be required for replacement post-sale.
- One-time expenses, such as unusual lawsuits or regulatory issues.
- F&I gross profit unaccounted for on the dealership financial statement.

Deductions to income typically include the following, all of which are expenses the buyer would expect to incur post-sale:

- Market rent factor (if the seller is undercharging rent on the facility to be sold with the dealership).
- Expenses reflected on the dealership management company statement that the dealership would incur post-sale.
- One-time payments that are not likely to recur.

Representations and Warranties

"Reps and warrants" are assertions made by sellers and/or buyers in a buy-sell agreement. The parties rely on each other to provide true information about the transaction. Thus, additional preparation items include an assessment of past or current environmental, legal or regulatory issues that need to be disclosed to a buyer. It is a best practice to disclose these items upfront, to avoid any surprises during due diligence.

In addition, you should be prepared to disclose any material accounting changes over prior periods upfront and document those changes in order to represent normalized adjusted earnings.

Confidentiality

It is critical during the preparation phase to determine which employees will be informed of the sale process. Employees may become concerned about a change in ownership and might even start looking for new jobs, so it is wise to take as few employees as possible into your confidence.

Generally, you'll need the skills of the dealership controller or CFO to assist with preparing the financials, although some sellers can work with their accountants to obtain the required information without alerting employees. If certain employees are made aware of the sale process, it is a good idea to have them sign a confidentiality agreement. Some sellers also provide stay bonuses to key employees in the event of a successful sale to ensure their commitment to assisting throughout the sale process.

Other Considerations

If the family name is associated with the dealership, you should determine in advance if you are open to the family name remaining on the business post-transaction. In this same vein, you should be prepared for a buyer to require a non-compete as part of a buy-sell; think through your willingness to limit your business activity after a sale.

Most importantly, the decision to sell a business is a very personal one. You need to consider how a sale will affect your personal and professional life. You need to really examine your succession plan.* The more you mentally prepare for life after the sale in advance of a transaction, the more confident you will be in your decision. Preparation improves sale execution and increases the odds for a successful outcome.

*NADA's *Dealer Guide to Business Succession Planning* may be helpful in this process.

TRANSACTION PHASE

Marketing

Once you have determined that a sale is the right decision and completed the required preparation, the marketing process can begin.

SALES PRESENTATION

It is a good idea to develop a sales presentation for the dealership/dealership group to share with buyers. This presentation, often developed by a broker, serves to promote the best attributes of the dealership. When done well, the sales presentation makes a compelling business case for purchase of the dealership. The presentation also provides buyers with relevant dealership information and disclosures so they can make well-informed offers. By making all disclosures upfront, sellers also minimize the risk of buyers discovering an undisclosed item during due diligence that could result in an adjustment to the agreed upon purchase price.

The following information is often included in the sales presentation:

- Detailed adjusted historical earnings.
- Detailed explanations of addbacks, including accounts affected by addbacks.
- Disclosures of historic or current legal, environmental or regulatory issues.
- Current performance metrics, including the dealership's sales effectiveness and service retention.
- Disclosures of add-points coming to market or other notable OEM communication.
- Pro forma projected earnings potential for the dealership.
- Detailed description of real estate for sale or lease, including square footage, number of service bays, and appraised values.
- Image upgrade requirements and estimated costs for construction.
- Local/regional business climate and economy.

Virtual Data Room. Backup information to the presentation can be shared with a buyer through a virtual data room. Information often provided in a data room includes:

- Historical financial statements.
- OEM sales performance reports.
- OEM service performance reports.
- Dealership comparable composites.
- Real estate appraisals.
- Environmental studies (Phase I or Phase II studies).

POTENTIAL BUYERS

After the presentation is ready for buyers to review, you need to determine which potential buyers to approach. If working with a brokerage firm, the broker will most likely present you with a list of buyers, along with an explanation as to why the firm believes the buyers are appropriate for your transaction. It is a good idea to research each potential buyer to find out how many acquisitions they have made in the past and how they have performed in a buy-sell. Also, understanding a potential buyer's operating culture may be important when considering your goal for a sale and the future of the business.

Most auto dealership acquisitions involve millions of dollars, so buyers usually perform a good deal of due diligence on historical earnings and performance before making a purchase. They'll have questions on financials and accounting. To ensure time is not lost during the marketing process, it's a best practice to prepare information, including work papers on accounting practices and detailed explanations of changes in financial performance, before approaching a buyer.

Confidentiality is one of the most critical aspects of the marketing process. For this reason, it is important to be prepared before going to market, so as to limit the time frame in which the business is being marketed and avoid a confidentiality breach before finalizing a purchase agreement. It is also important to have all potential buyers sign a confidentiality agreement before sharing any dealership information with them. You and your broker should stress the importance of confidentiality with every buyer, both verbally and in writing.

Negotiation

LETTER OF INTENT

The negotiation process begins when you start to receive offers, usually in the form of letters of intent (LOIs). Be sure to analyze each offer and compare key deal terms to determine which offer meets or exceeds your financial and personal goals for a sale. At this juncture, you should also enlist your transaction attorney to review the letters of intent.

Key items that are negotiated in most LOIs include:

- Price of blue sky.
- Real estate purchase price or lease terms.
- Valuations of sold assets (new, used, service loaners, demonstrators, parts, accessories, miscellaneous inventories).
- Buyer's deposit.
- Exclusivity period.
- Due diligence time frame.
- Pricing methodology for fixed assets

Exclusivity. One of the most important aspects of a letter of intent is the period of exclusivity. The primary purpose of the LOI, which is typically non-binding, is to take the dealership off the market while the buyer and seller negotiate a definitive purchase and sale agreement. In this regard, the LOI primarily benefits the buyer. That said, the seller also benefits because the buyer agrees to key deal terms in the LOI subject to the buyer's due diligence.

Inventories. Before signing a letter of intent, you should have a good understanding of your vehicle and parts inventory levels. Buyers will often specify model years they are willing to purchase and set limitations on the number of demonstrators and service loaners they are willing to buy. It is also important to understand your specific OEM service loaner programs and how the loaners should be handled in a buy-sell, particularly loaners that are leased from an OEM. The pricing of service loaners can have a material impact on the proceeds you receive on those vehicles, as payoffs on service loaners can be substantially higher than the price a buyer is willing to pay.

Similarly, it is a good idea to assess parts inventories to determine the amount of aged or obsolete parts in inventory. Most buyers are unwilling to purchase aged or obsolete parts, so you should have a plan for disposing of these parts.

DEFINITIVE AGREEMENTS

Upon signing the LOI, you will enter an exclusivity period with the buyer. During that time, you and the buyer will negotiate a definitive purchase and sale agreement, and the buyer will begin due diligence. Most transactions are asset sales and thus the agreement to be negotiated is an asset purchase agreement (APA). In some instances, a buyer will agree to a stock purchase. A stock transaction can be very beneficial to a seller for tax purposes, especially if a large LIFO reserve is maintained. Stock sales, however, often include a discount to purchase price due to a buyer's increased liability and negative tax consequences post-transaction. (Note: Blue sky cannot be amortized in the case of a stock sale and LIFO is assumed.) Importantly, only brokers licensed with the Financial Industry Regulatory Authority (FINRA) can represent a seller on a stock sale, as these are considered securities transactions and are under the purview of the U.S. Securities and Exchange Commission (SEC). As mentioned above, if a seller works with an unlicensed broker, the buyer may have a right of rescission post-transaction.

Whether a transaction is structured as an asset or stock sale, most definitive agreements include the following provisions, which you should review with your transaction attorney:

- ***Due diligence period:*** Typically, buyers will not complete due diligence of the seller's financials and real estate until definitive agreements are signed. The due diligence period is typically between 30 and 60 days; however, depending on the size of the transaction, the period can extend beyond 90 days. Typically, the real estate due diligence is the most time-consuming aspect of the due diligence period, particularly if a Phase II environmental assessment is required or if there are title complications. During this period, the buyer and buyer's advisors review the seller's financials in more detail and ask very detailed questions. In some cases, a seller will allow a buyer to access the DMS directly to review the dealer's accounting methodologies and confirm entries. The due diligence period is also when a buyer engages an environmental consulting firm to conduct environmental assessments of the real estate to be purchased or leased, and has the property appraised. Typically, when due diligence is complete, the buyer notifies the seller, at which point the transaction pricing is confirmed by the buyer. In some cases, sellers will wait until the due diligence is complete before notifying the OEM of the buy-sell; in other cases, the seller notifies the OEM of the buy-sell upon signing of the definitive agreements.
- ***Indemnities:*** These are items—such as a seller's pre-closing consumer or employee lawsuits or regulatory issues—from which the seller indemnifies the buyer for a negotiated period. They are important to a seller in that a buyer may require indemnification post-transaction, which may have a financial impact on the seller. To minimize the financial risk of an indemnity, it is a good idea to require a cap on the seller's exposure and on the indemnity period. The buyer also typically indemnifies the seller for any legal issues that may arise post-transaction.
- ***Representations and warranties:*** A seller should carefully read all reps and warrants in the definitive agreements to ensure they are accurate and true. Also, sellers should make sure all disclosures associated with the reps and warrants are complete. These items may also need to be reviewed by key managers at the dealership if they are subject to knowledge of the business, rather than only the dealer's personal knowledge. In the event a seller's rep or warrant proves untrue, a buyer may have the right to demand financial compensation due to the misrepresentation.
- ***Closing conditions:*** Both seller and buyer have closing conditions that need to be met before a transaction can close. Usually, a seller's closing condition involves only that the buyer can perform and has been approved. Ideally, a buyer's closing condition is limited to OEM approval. If a buyer's closing condition includes transaction financing or approval of a board of directors, the transaction has a higher risk of not closing.
- ***Termination clauses:*** Termination clauses are very important to a seller. If a buyer terminates a transaction after the seller's OEM and employees have been informed of the sale, the seller's business may be negatively affected. Because of this, most buy-sells require a non-refundable deposit that a seller retains if a buyer terminates a transaction after due diligence is complete and all of the buyer's closing conditions have been met. In some cases, a buyer and seller include a specific performance clause that requires the buyer or the seller to close on the transaction per the terms of the agreement, minimizing the risk of the transaction not closing.
- ***Outside closing date:*** It is important to have a firm time frame as to when a transaction closing must occur. There is a saying in the buy-sell business that "time kills deals." The longer a transaction goes on, generally the less likely it will close. Because the OEM has a state-mandated period to approve a transaction, it is a good idea to set an outside closing date that gives enough time for OEM approval, but not too much time to risk the transaction's success.
- ***Holdback/Escrowed Funds:*** In some cases, buyers will request a holdback of the purchase price or the escrow of funds for a period of time post-transaction. These funds are often associated with the time frames in the indemnity provisions and are used to ensure the buyer is covered in the event an indemnity is triggered or a rep or warrant proves untrue. Sellers will want to negotiate as small a holdback/escrow as possible and limit the time the funds are held.

Once the definitive agreements are signed, the buyer's due diligence is complete, and the OEM is notified, the buy-sell closing process begins.

CLOSING PHASE

Communication

Although most closing responsibilities lie with the buyer, you as the seller have several tasks during the closing phase of a buy-sell. One of your most important duties is communication.

EMPLOYEE COMMUNICATION

Once the buy-sell has been submitted to the OEM, confidentiality is more difficult to maintain. Thus this is usually the point at which most sellers, often alongside the buyer, choose to announce the sale to their employees. Effective communication of the ownership change and their future employment and employer is key to employee retention and a smooth ownership transition. In the case of an asset purchase, the seller terminates employees on the last day of ownership and the buyer hires them on closing day. One item that is often negotiated is accrued vacation. In some instances, a buyer will assume the employees' accrued vacation (usually receiving a credit against the purchase price), while in others the seller pays out all accrued vacation to the employees upon termination.

OEM COMMUNICATION

Buyers cannot manage the OEM approval process because they are not yet the dealers of record. Thus, the seller should continuously communicate with the OEM, actively managing the regional OEM manager to ensure the buyer's application process is running smoothly. Also, the seller should work with the OEM early on to obtain an expected closing date and hold the OEM accountable to that date. It is also a good idea to work with the transaction attorney to understand the OEM's obligations as to time frames and terms under state franchise laws and ensure the OEM is following state mandates.

BUYER COMMUNICATION

Once the definitive agreements have been signed by both buyer and seller, it is a good idea for both parties' teams to teleconference regularly to ensure clear communication as everyone prepares for closing. Inevitably, issues or questions arise at this time, and regular communication ensures those issues are resolved and do not threaten the closing.

Closing Tasks

In addition to communication, there are several tasks a seller should complete to ensure the closing process runs smoothly and results in the anticipated outcome.

SELLER'S CONTRACTS

The seller's counsel should work with the buyer's counsel to prepare contract assumptions for the contracts that are to be assumed by the buyer. The seller also needs to terminate any contracts that will not be assumed. To avoid unnecessary fees, it is important to review all contract terms well in advance of closing to determine the timing required for contract cancellations.

CLOSING STATEMENT

It is a good idea to begin preparing the transaction closing statement several weeks before closing. In so doing, you, the seller, ensure the methodology for valuation agrees with the definitive agreements and confirms the buyer's understanding. Also, preparing a closing statement early and updating it daily until closing ensures that closing day runs more smoothly, as the numbers simply need to be updated that day for any changes that occurred the prior day.

INVENTORY SERVICES

The seller should work with the buyer to schedule out the inventory audits for the week before closing. These services typically include:

- Vehicle inventory audit with floorplan lenders.
- Inventory checks with buyer to inspect for damage, etc.
- Parts inventory.
- Fixed assets inventory (if applicable).

NON-PURCHASED ASSETS

In preparation for closing, a seller should also wholesale or dispose of inventories that the buyer is not contractually obligated to purchase, such as aged parts inventory. Typically, the cost of the inventory service is shared by the buyer and seller. Also, the seller should make plans to remove any personal items or excluded assets that are not being purchased by the buyer.

LEGAL AGREEMENTS

A seller should work with the transaction attorney to finalize all required legal documents that need to be signed and executed at closing, including the bill of sale and debt payoff letters. The attorney can also help manage termination of the seller's franchise agreement with the OEM at closing and any other licenses or agreements.

EMPLOYEE TRANSITION

In an asset sale, all employees will be terminated by the seller and the buyer will need to rehire the employees under the new company. Typically, the buyer will come in a few weeks before closing to start the hiring process (interviews, applications, background checks, etc.). On the day of closing, the seller must issue termination notices, as well as final paychecks, to all of their employees, which can be a lengthy process.

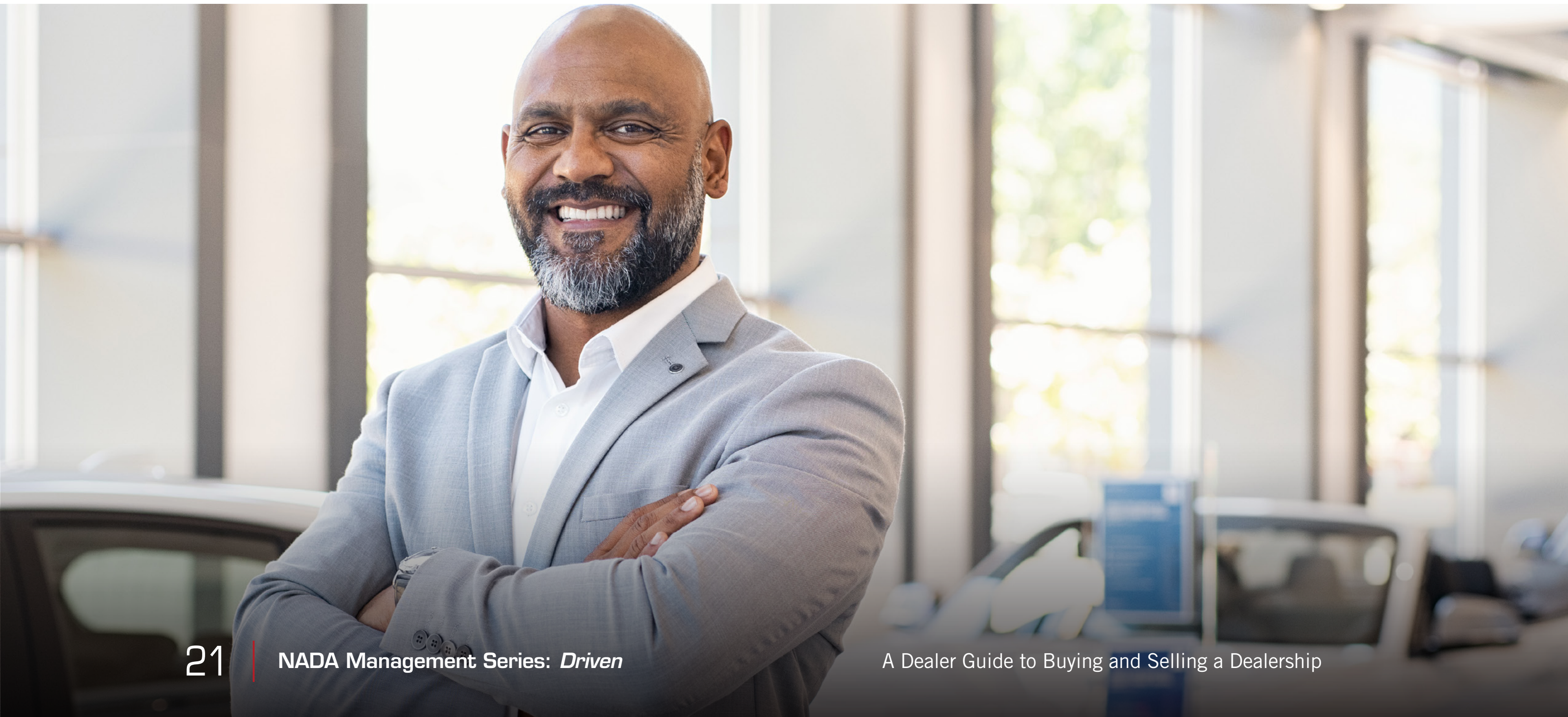
The day before closing is typically a very busy day. Often sellers close their business for sales and service in order to finalize the vehicle inventory, parts inventory, work-in-process schedules and all other accounting required to complete the closing statement. Also, the seller's and buyer's floorplan lenders inventory all vehicles the day before closing to determine the final payoff amount for floorplan at closing. It is not atypical for the buyer's and seller's teams to work late into the night in order to finalize and agree upon the final closing statement. On closing day, the buyer wires the agreed upon amounts to the seller per the closing statement and becomes the dealer of record.

POST-CLOSING

After closing, the seller continues to have responsibilities. Specifically, you and your advisors will need to perform the following functions:

- ***Wind down the balance sheet:*** In an asset sale, sellers retain their working capital, specifically their current assets and current liabilities. As such, sellers must be prepared to collect on their receivables and pay their payables post-closing. It is not uncommon for the buyer to allow the seller to work with the dealership's (i.e., the buyer's) accounting team to perform these functions post-closing, including handling the seller's F&I chargebacks. If these arrangements have *not* been made, sellers need to identify an accounting resource to assist them with winding down the balance sheet post-transaction, typically for six to 12 months.
- ***Removal of unsold assets:*** Most buy-sells require the seller to remove assets and inventories that have not been purchased by the buyer within a specific time frame. Sellers should make these arrangements promptly after closing, if not before.
- ***Storage of records:*** Sellers need to retain their financial and customer records for an extended period. You should make arrangements for record storage and access post-transaction. In some cases, the buyer will agree to store your records and provide access as needed. You will also need to work with your DMS to ensure you have continued access to your electronic financial statements as needed.
- ***Calendar key dates for release of holdback/escrow:*** A seller should work with the transaction attorney to calendar key dates for the release of escrowed funds and holdbacks. It is important also to track any requirements tied to the releases to ensure they are completed in a timely manner.

As you can see, selling a dealership is a very involved process. The key to success is preparation before, during and after the sale. Proper planning and realistic expectations better ensure a successful sale outcome. Like running a business, selling a business is a full-time job. Sellers should be prepared to invest time, money and effort to ensure their transaction is a successful one.



Appendix A

Buyer's Transaction Checklist

Project: **Date:**

A. INITIAL CONTRACTING

PURCHASE AGREEMENTS	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Letter of Intent (LOI)		
Asset Purchase Agreement (APA)		
Real Estate Purchase Agreement (REPA)		

PROJECT TIMELINE	RESPONSIBLE PARTY/PARTIES	DATE
Effective Date		
Agree on Assumed Contracts by:		
Obtain Survey by:		
Obtain Phase 1 Report by:		
Deliver Pre-Closing Notice by:		
Title Commitment Due by:		
Title Objections Due by:		
Survey Objections Due by:		
Environmental Objections due by:		
Inspection Period Ends		
Closing Date Deadline		
Extension to Closing		

MANUFACTURER NOTIFICATION	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Seller Letter to OEM #1		
Seller Letter to OEM #2		
Seller Letter to OEM #3		
Buyer Letter to OEM #1		
Buyer Letter to OEM #2		
Buyer Letter to OEM #3		
Obtain Approvals/Financing Package from OEM #1		
Obtain Approvals/Financing Package from OEM #2		
Obtain Approvals/Financing Package from OEM #3		

B. DUE DILIGENCE

DUE FROM SELLER	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Prior Survey		
Prior Appraisal		
Prior Environmental Reports		
Prior Title Policies		
Asset List		
Employee Roster		
Employee Pay Plans		
List & Copies Assumed Contracts		
Used-Vehicle List		
Prior Financial Statements		

DUE DILIGENCE BUYER	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Order Survey		
Order Environmental Report		
Order Real Estate Appraisal (per lender)		
Order Building Inspection		
Schedule Parts Audit		
Schedule Fixed Asset Appraisal		
Select Lender(s)		
Order UCC Search		

C. APPROVALS/FINANCING

MANUFACTURER APPROVAL BUYER		
COMPLETE OEM PACKAGE	**RESPONSIBLE PARTY/PARTIES**	**DATE COMPLETED**
Pro Forma Balance Sheet		
Operating Forecast		
Principal's Application		
General Manager's Application		
Operating Plan		
Obtain Planning Volume		
Obtain Facility Guide		
Obtain Ratios/Guides		
Determine Inventory/Floorplan Levels		
Other Documents		

DEALER LICENSING		
DEALER LICENSE APPLICATION	**RESPONSIBLE PARTY/PARTIES**	**DATE COMPLETED**
Dealer Bond		
OEM's Certificate of Dealer		
Surrender of Seller's License		
Dealer Plates		
Salesperson License Applications		
MOTOR VEHICLE SALES FINANCE LICENSE		
Application		
Dealer Bond		

FINANCING	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Select Lender		
Complete Lender Applications		
Submit Pro Forma Financial Statements		
Submit APA & REPA		
Submit Survey		
Submit Title Commitment		
Submit Environmental Reports		
Negotiate Lending Documents		
Execute Financing Documents		
Obtain Wire Instructions		
Borrower's Resolutions		

D. CLOSING

EMPLOYEES	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Obtain Roster		
Obtain Pay Plans		
New Employee Packets to All Employees		
Written Pay Plans to All Employees		
Benefit Sign-up: Prepare benefit election documents and have resources on-site on (dates)		
Obtain Custody of Seller's Employment Files		
Terminations		
Employment Posters		
List of Accrued but Not Paid Vacation		
Telephone Extension List		
Timecards		
Drug Tests (after employment offer)		
Driving Record Checks		

FIXED ASSETS	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Obtain Seller’s Asset List		
Appraisal by (vendor name)		
Reconcile List and Appraisal		
Delete Equipment Not Owned by Seller (including leased)		
Verify Presence of Fixed Assets		
Provide Value for Closing Statement		

PARTS / ACCESSORIES	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Obtain Seller’s Parts Pad		
Count/Audit by Third Party on (date)		
Reconcile/Roll-Forward Count		
Test Count for Accuracy		
Negotiate Obsolete/Other		
Obtain Seller’s Parts Return Right		
Provide Value for Closing Statement		

SPECIAL TOOLS	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Obtain Seller’s Special Tool List		
Obtain Required Special Tool List		
Count/Inventory of Special Tools (cost included in cost of equipment)		

NEW VEHICLES	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Obtain Seller’s New-Vehicle List		
Obtain Seller’s Floorplan Lender List		
Perform Inventory		
Reconcile New-Vehicle Inventory		
Provide Value for Closing Statement		
Obtain MSOs		

USED VEHICLES	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Obtain Seller’s Used-Vehicle List		
Obtain Seller’s Floorplan Lender List		
Perform Inventory		
Negotiate Price of Used-Vehicle Inventory		
Provide Value for Closing Statement		
Obtain Titles		

ASSUMED CONTRACTS		
OBTAIN ORIGINALS/COPIES ALL ASSUMED CONTRACTS	**RESPONSIBLE PARTY/PARTIES**	**DATE COMPLETED**
Uniforms		
DMS		
Copiers		
Postage Meter Vendor		
Signs		
Other		

WORK-IN-PROCESS (WIP)	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Obtain Seller’s WIP list		
Verify Seller’s WIP list		
Provide Value for Closing Statement		

FACTORY RELATIONS	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
OEM Approval Certificates		
Invoicing/Drafting – New Vehicles		
MSOs (invoicing/shipping destination)		
Dealer Code		
Brand 1 #:		
Brand 2 #:		
Brand 3 #:		
Brand 4 #:		
Brand 5 #:		
Parts Code		
Brand 1 #:		
Brand 2 #:		
Brand 3 #:		
Brand 4 #:		
Brand 5 #:		
Factory Communications Systems		
Brand Signs		
Brand 1 #:		
Brand 2 #:		
Brand 3 #:		
Brand 4 #:		
Brand 5 #:		

CLOSING DOCUMENTS		
ASSET PURCHASE DOCUMENTS	**RESPONSIBLE PARTY/PARTIES**	**DATE COMPLETED**
Assignment and Assumption of APA		
Bill of Sale, Assignment and Assumption		
License Use Agreement		
Noncompetition and Consulting Agreement		
Buyer's Consent		
Escrow Release Letter		
Manufacturer Deal is Done Letter		
Closing Statement		
Seller's Resolutions		
Buyer's Resolutions		
Seller Resignation Letter to Manufacturer		
Certificate of No Tax Due (NJ,NY)		
REAL ESTATE PURCHASE DOCUMENTS	**RESPONSIBLE PARTY/PARTIES**	**DATE COMPLETED**
Deed		
General Assignment and Bill of Sale		
Seller's Affidavit of No Possessory Rights or Liens		
Seller's FIRPTA Affidavit		
Seller's IRS Form 1099		
Assignment of Warranties		
Broker Lien Waiver		
Seller's Closing Certificate		
Seller's Resolutions		
Buyer's Resolutions		
Closing Instructions to Title Company		
Owner's Policy of Title Insurance		
Settlement Statement		
Lease to Dealership Affiliate		
Tax Proration Agreement		

E. MISCELLANEOUS

COMPUTER SYSTEM	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Install DMS		
Interface		

LICENSES/TAX	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
State Seller’s Permit		
Local Licenses		
Employer Number		
Unemployment Compensation Tax Number		

ACCOUNTING	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Chart of Accounts		
Schedule Setups		
Journal Setups		
Service & Parts Matrix		
Personnel List		

STATIONERY/FORMS/SUPPLIES	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Letterhead		
Repair Orders		
Parts Tickets		
Payroll Checks		
Cash Receipts		
Technician Flag Sheets		
Tax-Exempt Certificates		
Envelopes		
License Plate Frames		

F&I ARRANGEMENTS	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Vendor		
Dealer Agreements		
Captive		
Banks		
Other		
Set up F&I Screens		

SERVICE DEPARTMENT		
LIST OF TECHNICIAN CERTIFICATES	**RESPONSIBLE PARTY/PARTIES**	**DATE COMPLETED**
ASE		
Schedule Future Training		

SAFETY PROGRAMS	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
MSDS Sheets		
OSHA Compliance		
Other		

WASTE REMOVAL	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
EPA Number #		
Haulers		
Waste Oil		
Antifreeze		
Other		

INSURANCE	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Commercial Property/Casualty		
Certificates of Insurance		
Lender		
Workers' Compensation Coverage		

UTILITIES		
CHANGE TO NEW ENTITY'S NAME	**RESPONSIBLE PARTY/PARTIES**	**DATE COMPLETED**
Electric		
Water		
Telephone		

VENDORS		
LIST OF ALL VENDORS	**RESPONSIBLE PARTY/PARTIES**	**DATE COMPLETED**
Uniforms		
Check Approval Service		
Credit Card Vendor		
Waste Oil		
Security Service		
Cleaning Service		

BANK ACCOUNTS	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Checking		
Credit Card Account		
Check Guarantee Account		

SIGNAGE	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Municipality Permits		
Brand signs		
Order Sign Covers for Seller’s Name		

FACILITY	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Re-key Doors		
Banners for Opening		

GRAND OPENING	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Advertising		

Appendix B

Seller's Checklist

Project: **Date:**

A. PREPARATION PHASE

RECRUIT ADVISORS	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Buy/Sell Transaction Attorney		
Licensed Broker/Business Appraiser		
Tax Accountant		
Wealth/Financial Advisor		

FINANCIAL GOALS & VALUATION EXPECTATIONS	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Determine Business's Market Value		
Determine Real Estate Value		
Determine Expenses Pre- & Post-Sale		
Review Accounting Methodologies		
Review Contingent Liabilities		

REAL ESTATE	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Obtain Current Appraisal		
Obtain Cost Estimate OEM Upgrades		
Identify Mortgage Prepayment Penalties		
Determine Lease Structure (if applicable)		

LONG-TERM CONTRACTS	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Review Long-Term Contracts		
Determine Cost Remaining Contracts		
Identify Contract Termination Costs		
Determine Ability to Assume a Contract		

FINANCIAL PERFORMANCE	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Prepare Detailed Adjusted Earnings Analysis		
Identify Addbacks to Historical Earnings		
Identify Deductions to Historical Earnings		

REPRESENTATIONS & WARRANTIES	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Assess/Disclose Environmental, Legal, Regulatory Issues (past or current)		
Disclose Material Accounting Changes from Prior Years (to represent normalized adjusted earnings)		

CONFIDENTIALITY	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Obtain Confidentiality Agreements from Anyone Assisting with Sale		

OTHER CONSIDERATIONS	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Decide Re Keep/Remove Family Name Post-Transaction		
Determine Willingness/Parameters for Non-Compete		

B. TRANSACTION PHASE

PREPARE SALES PRESENTATION	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Detailed Adjusted Historical Earnings		
Detailed Explanations of Addbacks (including accounts affected by addbacks)		
Disclosures Legal, Environmental, Regulatory Issues (historic or current)		
Current Performance Metrics (including sales effectiveness and service retention)		
Disclosures Imminent Add-Points, Other Notable OEM Communications		
Pro Forma Projected Earnings Potential		
Detailed Description Real Estate for Sale or Lease (including square footage, number of service bays & appraised values)		
Image Upgrade Requirements and Estimated Construction Costs		
Local/Regional Business Climate and Economy		

PREPARE VIRTUAL DATA ROOM	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Historical Financial Statements		
OEM Sales Performance Reports		
OEM Service Performance Reports		
Dealership Comparable Composites		
Real Estate Appraisals		
Environmental Studies (Phase I or II)		

PREPARE LIST OF POTENTIAL BUYERS	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED

C. NEGOTIATION

LETTER OF INTENT	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Price of Blue Sky		
Real Estate Purchase Price or Lease Terms		

Valuation of Sold Assets (new, used, service loaners, demonstrators, parts, accessories, miscellaneous inventories)		
Fixed Assets		
Buyer's Deposit		
Exclusivity Period		
Due Diligence Time Frame		

DEFINITIVE AGREEMENT	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Purchase Price of Assets		
Due Diligence Period/Process		
Indemnities		
Representations & Warranties		
Closing Conditions		
Termination Clauses		
Outside Closing Date		
Holdback/Escrowed Funds		

D. CLOSING PHASE

COMMUNICATION	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Employee Communication		
OEM Communication		
Buyer Communication		

CLOSING TASKS	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Prepare Seller's Contracts Listing		
Prepare Draft Closing Documents		
Remove/Dispose of Non-Purchased Assets		
Work with Buyer to Schedule Inventory Services (new, used, fixed assets, parts)		
Work with Attorneys to Prepare Legal Documents		
Order Payoff Letters		

D. POST-CLOSING

POST-CLOSING	RESPONSIBLE PARTY/PARTIES	DATE COMPLETED
Wind Down Balance Sheet		
Remove Unsold Assets		
Record Storage		
Calendar Key Dates for Release of Holdback/ Escrow		

Acknowledgments

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