



**BrownWinick**  
ATTORNEYS AT LAW®

*Buy-Sell Agreements  
What You Need to Know*

Drew Larson  
BrownWinick Law Firm  
666 Grand Avenue, Suite 2000  
Des Moines, IA 50309-2510  
Telephone: 515-242-2485  
E-mail: [larson@brownwinick.com](mailto:larson@brownwinick.com)

*A Firm Commitment to Business™*

# What is a Buy-Sell Agreement

---

- Just an agreement about how to deal with stock ownership in certain circumstances.
- Can cover certain governance matters too, similar to a voting trust.

# Terminology

---

- I will use the term shares, company, and corporation. These principles generally apply to any business entity, including LLCs, with some limited nuances for taxes.

# What Will We Cover?

---

- Goals
- Triggering Events
- Authorized Buyers
- Valuation
- Payment Terms / Financing
- Tax Issues

# Goals

---

- Everyone: Communicating and protecting reasonable expectations, the minimization of conflict.
- Multi-Generational Transfers
- Internal Sales
- Protecting Company Viability
- Estate Planning
- Incentive Compensation
- Control

# Triggering Events

---

- Voluntary Transfers
- Involuntary Transfers
- Death
- Disability
- Termination of Employment
- Retirement (age requirements, voluntary?)
- Put-Call Options
- Drag and Tag Along Rights

# Triggering Events – Cont.

---

- Which triggering events create an obligation to sell/purchase, versus an option to sell/purchase.
- What is “fair” to everyone?

# Authorized Buyers

---

- Cross-Purchase vs. Redemption
- All Shareholders, or Just Certain Shareholders?
- Exceptions – Permitted Transfers



# Valuation

---

- Certificate of Agreed Value
- Appraisal (marketability and minority discounts)
- Free Cash Flow / EBITDA Multiple
- Book Value / Accounting Measures
- Impact of Third Party Offer
- Clawbacks, Other Special Provisions
- Key is finding a method everyone can agree on while they are not sure if they are buying or selling.

# Payment and Financing

---

- Down Payment
- Timing of Balance on Note
- Security – Pledge
- Protections for Working Capital
- Life and Disability Insurance

# Taxes

---

- **Redemption by Corporation**
  - Generally Capital Gain
  - Certain limitations for LLCs/Partnerships
  - No Stepped Up Basis in Stock
  - Proportionate Sharing of Cost/Risk by Other Shareholders.
- **Cross-Purchase**
  - Purchasing Shareholder Gets Basis in Stock
  - Gets Complicated Fast
- **Installment Treatment**

# Questions?

---



**BrownWinick**  
ATTORNEYS AT LAW®

---

**Website: [www.brownwinick.com](http://www.brownwinick.com)**  
**Toll Free Phone Number: 1-888-282-3515**

**OFFICE LOCATIONS:**

**666 Grand Avenue, Suite 2000  
Des Moines, Iowa 50309-2510  
Telephone: (515) 242-2400  
Facsimile: (515) 283-0231**

**616 Franklin Place  
Pella, Iowa 50219  
Telephone: (641) 628-4513  
Facsimile: (641) 628-8494**

**DISCLAIMER: No oral or written statement made by BrownWinick attorneys should be interpreted by the recipient as suggesting a need to obtain legal counsel from BrownWinick or any other firm, nor as suggesting a need to take legal action. Do not attempt to solve individual problems upon the basis of general information provided by any BrownWinick attorney, as slight changes in fact situations may cause a material change in legal result.**

***A Firm Commitment to Business™***