

Ohio TechAngel Funds

Exit Road Map

November 21, 2011

OHIO TechAngel

Ohio | Third Frontier

Ohio TechAngel Funds (OTAF) Exit Road Map

Background: OTAF only invests in young, Ohio-based technology ventures which we think can be sold in 3 – 5 years and yield \$3 – 5 million to the founders/CEO. Such swift, lucrative exits are only likely to occur when the acquirers are strategic, not financial buyers. To accomplish this goal our portfolio company CEO's must identify potential strategic acquirers and then ration their scarce capital to enhance their venture's allure in the minds of these future bidders (i.e. build "Buyer's Value"). This focus replaces the traditional desire to increase the shareholders value appearing on the balance sheet. Instead of trying to grow EBITDA the team aims to become an attractive acquisition target for a few targeted companies who will benefit most from acquiring the venture's technology or team.

Few OTAF Directors and portfolio company CEOs have experience in identifying the most attractive strategic bidders, becoming more pulchritudinous in their eyes, and then consummating the M & A transaction. The purpose of this document is to facilitate this process.

The guidance below results from the work of OTAF's Outcomes Committee which, during the summer of 2010, convened 30 volunteer members to analyze and improve our exit acumen. Three books the participants read formed the foundation for this exit road map: 1) **Early Exits**, by Basil Peters; 2) **Strategic Entrepreneurism**, by Jon Fisher; and 3) **Ultimate Exits**, by Dr. Tom McKaskill.

OTAF management and members are deeply indebted to these authors. Hopefully herein we have provided adequate attribution and appreciation for their concepts and wisdom. Our members have received a synopsis of each book (see Appendix) and we apologize to these authors if we have failed to capture the essence of each tome as it relates to developing our exit pathway.

Executive Summary: The OTAF Exit Road Map is comprised of eight steps:

- **Step One:** Take an inventory of the venture's current strategic assets and competencies which represent the highest value in the minds of Targeted Strategic Bidders (TSBs).
- **Step Two:** Immediately identify threatened or highly motivated bidders.
- **Step Three:** Identify potential strategic bidders.
- **Step Four:** Prioritize the top five Targeted Strategic Bidders (TSBs).
- **Step Five:** Design and implement Targeted Strategic Customer (TSC) sales and marketing plans.
- **Step Six:** Track the Five TSBs
- **Step Seven:** Review the checklists in the **Ultimate Exits Workbook**.
- **Step Eight:** Select an Investment Banker.

It would be exceedingly naïve to think that any M & A transaction path will mirror OTAF's exit road map, or to presume that completing these eight steps assures lucrative exits. However, OTAF's mission is to build entrepreneurial wealth across Ohio. We believe that articulating these steps will support our mission for these reasons:

- “The management of return is impossible, the management of risk is illusory, but PROCESS is the one thing we can exert an influence over.” (James Montier, **The Little Book of Behavioral Investing.**)
- There are two ways to improve one’s performance:
 - 1) Increase the level of knowledge;
 - 2) Increase the consistency with which current knowledge is applied
(paraphrased from **The Checklist Manifesto**, by Dr. Atul Gawande)

n.b.: *This document presumes the reader has participated in OTAF’s Directors Course which explains the leadership role OTAF Directors are expected to play to help orchestrate lucrative exits.*

It will be helpful to commence by differentiating between financial and strategic buyers. The best exegesis of this topic appears as Chapter Two of Dr. Tom McKaskill’s book entitled **Ultimate Exits.** It would be wise for all OTAF Directors to not only read the book, but also recommend it to their fellow Directors. Tom’s 268-page book can be download at no cost here:
<http://www.drexil.net/page6/ultimateexits.html>

Here are Tom’s essential points to set the stage for the eight step road map which follows.

Definitions of a Strategic Buyer and a Strategic Sale:

- “The strategic buyer is the one who can best utilise the underlying assets and capabilities of the firm.” (Dr. Tom McKaskill; **The Ultimate Deal 2**; page 69.)
- “Such acquisitions are bought, not on the basis of the profits of the acquired business, but on the value that can be generated within the combined entity.” (IBID, page 5.)
- “The strategic buyer is one that is identifiable, reachable, willing and capable of undertaking the acquisition before, during and after the deal.” (IBID; page 185.)
- “Financial sales are always going to be limited by the profit generating capability of the seller. A strategic sale, however, is only limited by the size of the opportunity generated within the acquiring corporation.” (IBID, page 7.)
- “If you want to extract the highest sale price for the business you should be seeking out a buyer who can exploit the business better than you.” (Dr. Tom McKaskill; **Ultimate Exits**; page 11.)

Important Reminder to CEOs: *It is the duty of the selling CEO to extract a full price for the business and only from a strategic bidder. Why? Because the more a strategic buyer pays, the more it values the team, and this increases the team’s stature and clout post-closing. Financial bidders are much more likely to reduce staff to achieve an ROI target than to grow the business to optimize strategic value. Strategic buyers seek keystone employee leaders who can serve as the foundation for building bigger teams. This increases the likelihood that the team will stay intact, and in Ohio.*

Step One: Take an inventory of the venture’s current strategic assets and competencies which represent the highest value in the minds of TSBs.

A successful strategic sale requires moving away from the balance sheet and income statement to focus on the buyer’s threats and opportunities. Ideal strategic buyers are looking ahead (through the windshield) and contemplate how their own company’s momentum will accelerate once the targeted venture is brought on board. Conversely, financial buyers are fixated on the past (stare at the rear view mirror). They are more worried about whether the venture’s historic trend line will continue after they have completed the acquisition.

A venture’s current strategic assets and competencies can be grouped in two categories. Those items which it currently has and can be used by the buyer to either eliminate threats or to leverage opportunities should be thought of as **“Strategic Assets.”** They are comprised of what it “owns.” Those tasks which the venture accomplishes exceedingly well are **“Strategic Competencies.”** These reflect the knowledge

and skill of the team, and can be thought of as what the venture "does." The goal of Step One is to uncover 100% of what the venture both "owns" and "does" which might help a strategic buyer either manage a threat or capitalize upon an opportunity.

Most enterprises suffer from "***The Curse of Knowledge***" which causes them to overlook (thus undervalue) what their team routinely accomplishes so effortlessly. Working in the business everyday hampers their ability to step back and not take for granted the venture's assets and competencies. These questions below can help offset this "Curse of Knowledge." Then the examples of strategic assets and strategic competencies should facilitate a venture's generating its own inventory which is the starting point for identifying TSBs.

Questions To Combat "The Curse of Knowledge"

- "If we didn't have a particular asset or capability, how badly would we be disadvantaged competitively and/or financially?"
- "What do we have, or do, that another firm would find attractive.....or that another firm could leverage much more than us?"
- "What do we have, or do, that could not be readily replicated by someone even if they had access to an unlimited amount of capital?"
- "If today someone decided to enter our business, how long would it take them to reach our stage of sophistication and development?"
- "If they had access to unlimited funding when they decided to compete with us, how much capital would they have to consume to reach our level of development and market presence?"
- "What do we possess that TSBs would struggle the most to replicate?"
- "Have we developed an 'unfair competitive advantage' which can't be replicated swiftly even by others if they had unlimited funding?"
- "Is there a long lead time aspect of our business which others would find difficult to accelerate regardless of their financial or other resources?" (Long lead times can preclude acceleration of product development or market capture by others, regardless of their contacts and capital, but we may have taken this advantage for granted.)
- "What do we have, or do, that some other firm would find highly attractive, or that some other firm might likely feel they could leverage much more effectively than us via their existing sales force and distribution channels?"
- "What constraints do we have on our ability to grow that another firm doesn't have? If our new owner removed this constraint for us, could our sales volume suddenly explode?" (It is helpful to think in terms of constraints other than capital. Examples include access to raw materials in short supply, or having the buying power to extract better raw material pricing, or having the reputation to attract premier talent, etc.)
- "Do we possess anything which could not be replicated by anyone in the next 36 months, regardless of the team they assembled?" (Examples include long lead time permitting procedures and regulatory approvals.)
- "Do we have any legacy or stranded assets, or intellectual property which we currently do not use so we might be overlooking their value to others?"

Having considered these questions, the next step is to generate a list of the venture's strategic assets. These examples might help.

Examples of Strategic Assets

- Intellectual Property (patents, trademarks, registered brands, copyrights, licenses)
- Regulated approvals and permits to sell (e.g. FDA, FCC)
- Testimonials and Approvals (e.g. AMA recommended; Underwriters Laboratory approved)
- Customer Base (High profile or hard to acquire customers?)
- Strong brand equity in U.S. markets (e.g. our position might be highly attractive to foreign acquirers anxious to buy an established US footprint)

- Distribution Channel
- Technology or a technical process or trade secrets
- Secret formulas or processes
- Documented or codified knowledge
- Agreements or contracts
- Physical property, equipment and inventory
- Advisors, Directors, management and key employees
- Access to specific institutions and organizations
- Licenses, membership status
- Social, government or business networks

Then generate the list of strategic competencies and capabilities. This list of examples might help.

Examples of Strategic Competencies

- Marketing and promotion skills
- New product design and development ingenuity & creativity
- Product manufacturability (efficient and low cost)
- Sales and after sales support
- Procurement
- Quality control
- Networking
- Managing Distributors
- Managing Suppliers
- Managing large complex projects

Step Two: Immediately Identify threatened or highly motivated bidders.

The strategic buyer likely to be the first and most urgent bidder is one plagued with an extremely urgent problem which the target venture can swiftly solve. Before mapping the landscape of all potential TSBs the team should first try to uncover one with such an urgent problem that it might gladly provide a swift, lucrative bid.

To better understand the circumstances that drive this type of sudden acquisition, think of the “problem” as a threat that could be mitigated or reduced and where the threat is seen by the concerned corporation as a potential or actual reduction in current or forecast revenue if no counter action were undertaken very soon. (Missing forecasts can be painful and can prompt a pre-emptive purchase as an announced way to get back on track over the next several quarters. This can be particularly valuable to publicly traded corporations reeling from analysts’ downgrades.) Such urgent problems can be caused by both **External Threats** and **Internal Threats**.

Examples of External Threats

- Major customer defaults
- Major supplier defaults
- Major supplier is likely to be purchased by a competitor
- New large, feared competitors enter the market
- Current competitor introduces a more advanced product
- Current competitor becomes noticeably more effective, gaining market share
- There is a high impact change in legislation or regulation
- A natural or terrorist disaster occurs
- Loss of a major contract
- Loss of a critical distribution channel

- Customers change their buying patterns
- Problems and delays with clinical trials and FDA approval
- Course change to seek CE Mark and put on hold FDA approval

Examples of Internal Threats

- Loss of key employee(s) due to departure or retirement
- Lack of presumed funding
- Major delays in product development and roll-out
- C Level Officers suffer health or personal/family problems
- Urgent need to buy out a business partner or joint venture owner

Candidly, it is unlikely this effort will surface a desperate strategic bidder with the characteristic of “We’ve got an emergency we can immediately fix by buying OTAF’s portfolio company!” Nonetheless, it is wise to complete this step before undertaking the complete road map project below. Furthermore, the external and internal threats should be kept in mind as the TSBs are tracked in Step Six below.

Step Three: Identify potential strategic bidders.

This step will consume the most time and thought. The management team starts by identifying as many potential strategic buyers as possible. The list will then be culled to the five highest value targets which become the TSBs (in Step Four below).

Solving a serious problem, negating a threat, overcoming an obstacle, or removing a constraint are the most common ways in which our portfolio company can offer strategic value to acquirers. Each bidder needs to be shown the strategic value beyond the accounting value on the venture’s financial statements.

Generally speaking, a higher strategic premium can be gained when the acquired venture enables a buyer to generate new revenues (via high velocity sales) rather than just solve an existing problem or reduce costs. Thus, the venture should focus on what it owns and does which can swiftly drive significant additional revenue inside each potential bidder.

Answering these questions below should help generate the initial list of all potential strategic bidders. At this point the focus should just be on industry players. The team will eventually query investment bankers about potential non-industry bidders such as private equity firms which might be pursuing an industry roll-up strategy.

Questions to Generate the Initial List of Potential Strategic Bidders

- “Who makes money when our venture makes money?”
- “Who does not make money when we make money?”
- “Who sells to the same customers we do?”
- “Who needs our customer base?”
- “Who can make more money from owning and selling our products than we can?”
- “Who could significantly reduce their time to market for new products or processes if they owned our products/services?” (i.e. “Build vs. Buy”)
- “Who could deny access of a competitor to new products or processes if they bought us?”
- “Who can remove a constraint on our current business if they owned us (thereby accelerating our growth potential)?”
- “Who has a problem which we can fix better for them than anyone else?”
- “What threat can we reduce or eliminate?”
- “Who uses the same technology we use? Could we become a swift conversion?”
- “Who needs our technology?”

- “Who needs our impressively broad and well protected IP portfolio?”
- “Who needs our hard to replicate trade secrets, copyrights, of domain names?”
- “Who needs our special channel partners and re-sellers?”
- “Who needs our preferential arrangements with suppliers?”
- “Who needs our difficult to obtain governmental permits, approvals, licenses and ratings?”
- “Who needs our incredible team of specialists, programmers, scientists, and salesmen?”
- “Who needs our unique sales process and management systems?”
- “Who has a similar business and has aggressive expansion objectives?”
- “Which companies in our sector have recently completed acquisitions?”
- “Which companies in our sector were outbid recently on an acquisition?”
- “Which companies have surplus cash?”
- “Have any announced an IPO?”
- “Have any sold off parts of their business, thereby generating a cash horde?”
- “Which businesses are similar to ours but operating in different geographies?”
- “Do we have any non-US competitors who might covet our U.S. operations and client base as their swift entre into the US market?”
- “Who needs our EBITDA?” (n.b.: This is the least attractive attribute because it suggests the venture seeks to be sold to financial buyers who will probably only offer a multiple of EBITDA. It takes vast amounts of dilutive capital and many, many years to build significant EBITDA. The result is that OTAF is not likely to achieve our 58% IRR Hurdle Rate when ventures are sold to financial bidders. Nor is it likely the founders/CEOs will reap our targeted payday for them of \$3 – 5 million in 3 – 5 years. Therefore, OTAF eschews ventures seeking to sell to financial bidders. Of course, this should have been discovered during OTAF’s Due Diligence so EBITDA won’t be prevalent on the list of TSB attraction attributes.)

Step Four: Prioritize the Top Five Targeted Strategic Bidders (TSBs).

Armed with hopefully a rather exhaustive list, the next step is to cull it down to five. The ability to pay \$20 - \$50 million in cash at a time 3 – 5 years in the future is, of course, a mandatory qualifier. However, all these questions below should be considered in narrowing the list to five TSBs which then will be continuously monitored and tracked.

Questions to Prioritize the Top Five TSBs

- “Public or private company?” (While public companies may be capable of paying more, a private acquirer usually can move much faster and may be less encumbered by extreme Sarbanes Oxley compliance.)
- “Do they have a dedicated M & A team which completes multiple deals per year?”
- “What has been their historic average deal size and number of deals per year?”
- “What is their track record of success with past acquisitions?”
- “Have they demonstrated a willingness to pay cash in past transactions?”
- “Do they have cash on hand, or will they be borrowing to buy us?” (If the latter be sure they already have the requisite bank credit line of financing in place.)
- “Would acquiring us be a modest acquisition as a percentage of the acquirer’s revenues and net worth, or would they be ‘betting the ranch’? How many larger acquisitions have they done in the last five years?” (Ideally our transaction would not exceed 15% of either annual revenues or net worth.)
- “Do any of the potential bidders have one clear and detested rival they want to beat? If so, how would that rival’s being the winning bidder affect the career of our internal champion at the losing bidder?”
- “Do we currently have any special access to any of the TSBs through our existing network?”

For each TSB consider how to adapt the TSB Marketing & Networking Plan (See Appendix). Of special importance is filling in the organization chart to know those individuals personally who will be involved when an acquisition bid is being considered. Additionally, it is essential to know the approval levels for each TSB. (For instance, some global corporations will allow subsidiaries and divisions to make acquisitions under \$50 million on their own volition, without involving the parent's business development team.)

Obviously the goal is to know who will be the requisite internal champions behind a bid for OTAF's portfolio company. Companies don't buy companies; People buy companies. Directors should interrogate the CEO at each BOD meeting regarding the implementation of the TSB Marketing & Networking Plan, plus the progress being made in understanding each TSB's org chart and building rapport with the decision makers.

Step Five: Design and implement Targeted Strategic Customer (TSC) sales and marketing plans.

In reality, a portfolio company's ultimate customer is the highest bidder who becomes the new owner. Although Directors' overarching fiduciary responsibility is to maximize shareholders value, their success in doing so can only be known at the time of the exit. Therefore, they should constantly focus on activities which build "Buyer's Value." The primary activity which grows buyer's value is the acquisition of customers which impress TSBs. Once the TSBs have been identified, management can focus on identifying the Targeted Strategic Customers (TSCs) which will attract TSBs. This strategy of focusing on TSCs is fully explained in Jon Fisher's book ***Strategic Entrepreneurism***. OTAF Directors should strongly recommend it to their fellow Directors. (Excerpts of the book appear in Appendix B.) On page 121 Jon mentions the attributes of an attractive TSC. They can be paraphrased as follows:

- A reputation that can validate your product. Their testimonials carry exceptional weight because they are viewed as leaders in their industry. These may not be the largest companies, but their view of technology trends is highly respected.
- A business relationship with other potential customers. They are a part of a network which might lead to other business, especially in a new industry or vertical
- A potentially large source of revenue from this single customer. Gaining their business is sufficiently meaningful to warrant the additional time and effort behemoths often require. **Note:** Such TSCs may qualify more because they can alleviate cash flow concerns than because they are marquee names which impress TSBs. Some prospects warrant special targeting as TSCs solely because of the operating cash flow they can provide, especially if the venture is not nearly cash flow positive.

Putting aside this last point, a TSC is not necessarily the largest or most profitable customer, but landing it will make it easier to attract other customers, and ultimately, generate interest from TSBs.

For each of the five TSBs management should identify at least two prospective TSCs. This could mean a total of ten TSCs, but there is often a high degree of overlap because many TSBs covet the same marquee customers. The following questions should be asked with the answers viewed from the perspective of each of the five TSBs.

Questions to Identify Targeted Strategic Customers (TSCs)

- "Is the customer a good credit risk?"
- "What is company's current momentum in terms of revenue and profitability growth (and stock price, if publicly traded)?"
- "Does it pay timely, not exceeding normal terms?"
- "Is this customer viewed to truly be a thought leader and early adopter among its peers? If we could only convert one company in its industry to our product, would this be the one?"

- “What’s the corporate DNA and likely chemistry? Are we the type of supplier they are likely to want?”
- “Is anyone in our organization uniquely qualified and/or connected to lead this sales project?”
- “Do we have a special entre into this prospect who might accelerate the sales cycle?”
- “Is it really likely we will be able to develop our relationship to the extent they will become a Supremely Satisfied Customer (SSC)?”
- “Will they provide ardent testimonials and receive phone calls? Might they make warm introductions?”
- “Do they appear willing to participate and be quoted in white papers and industry media, or this strictly against their corporate policy?”
- “How does this company rank in terms of difficulty of acquiring it as a customer? Is it truly worth the extra effort?”
- “How much more expensive will the associated client acquisition costs be than our average customer?”
- “What is its reputation as a customer among its suppliers? Is it high maintenance and overly demanding, or generally regarded as a high value client?”
- “How complicated is the client’s Purchase Order (PO) approval process and therefore how protracted is the sales process? If it is longer than most, then which of our targeted strategic bidders will view this as a plus? Which as a minus?”
- “Will they be willing to help us craft the next iteration of our product?”
- “Who are the members of their Board of Directors? Are there any cross-BOD ties with one of our TSB’s?”
- “Are there any other special relationships which this prospect might have with any of our five TSBs?”

For each of the resultant TSCs management should craft a tailored sales plan with greater urgency and priority over all other sales efforts. Because this is the most critical subset of the sales pipeline, the sales momentum with each TSC should be a routine BOD meeting topic. Simply stated, the most effective path to building buyers value passes through converting a growing number of TSCs to SSCs (Supremely Satisfied Customers).

Step Six: Track the Five TSBs.

To ensure that the exit focus is imbedded in the venture’s DNA, Directors should review the tracking information for the five TSBs at each Board meeting (along with the progress in landing the TSCs). Once the BOD agrees upon the TSBs the venture’s CFO should provide Directors the information below. Special attention should be given to any publicity regarding the external and internal threats enumerated in Step Two above. This information will enable staying abreast of the activities of each TSB.

Tracking the Five TSBs

- All acquisitions, press releases, and financial reports since the last BOD meeting
- Who sits on their BODs? Do we know any of them? Can we gain access?
- If VC-funded, who are the assigned partners at each VC firm? Do they have dry powder?
- Map the organization chart to identify those who must be involved in approving an acquisition bid for us. Have we filled in any org chart holes since the last meeting? Any personnel changes?
- If holes remain, then plan to engage specific individuals at the next industry conference. When is it and who is attending from our company? Can we be a speaker?
- If a TSB has completed any recent acquisitions, can we identify the investment bankers which represented the sellers?
- For each TSB do we need to update our strategic customers (see Step Six)?

Step Seven: Review the Checklists in the *Ultimate Exits Workbook*.

Along with monitoring the TSBs and the progress converting TSBs to Supremely Satisfied Customers, the BOD should track its preparedness for a lucrative exit by reviewing the superb checklists at the back of Dr. Tom McKaskill's *Ultimate Exits Workbook* (pages 54 – 59). It too is available for download without charge: <http://www.drexit.net/page6/assets/Ultimate%20Exits%20Workbook.pdf>

- ***Awareness and Alignment Index*** (page 54)
- ***Premium on Sale: Factors which increase final sale price*** (page 56)
- ***Strategic Exit Strategy Index*** (page 57)
- ***Discount on Sale: Factors which reduce final sale price*** (page 58)
- ***Operations Management Index*** (page 59)

These checklists are attached to this document after the appendix. Ideally these checklists would be completed prior to selecting an Investment Banker because showing them this work might enhance their ardor for bidding on the engagement.

Step Eight: Select an Investment Banker.

The venture should commence developing dialogues with investment bankers before the second anniversary of OTAF's investment. Our Director should arrange introductions to bankers who are visiting the area to meet other OTAF portfolio companies. The goals of these meetings are to: 1) Assess each banker's industry expertise; 2) Garner views about the key drivers of buyer's value in the current market environment; 3) Discern whether a particular banker has an especially unique approach; and 4) Sense whether there might be the requisite trust and chemistry to facilitate a swift, successful transaction.

OTAF feels it is wise to have our Director lead the investment banker engagement process for two reasons. First, in the parlance of game theory, the sale of the company is both a "Single Play" and a "Multiple Play" situation. For the outside Directors, it most always is a single play event, which means the exit will not result in an on-going relationship with the winning bidder. However, many CEOs will view the sale to be a multiple play opportunity because they aspire to work for the acquirer. Savvy bankers competing for the engagement will appeal to this desire. This could prejudice reactions to competing bids which might not result in the optimal banker winning the engagement if the CEO picks the winner.

The second reason OTAF wants its Director to lead the banker interviews is so that the CEO can stay focused on driving the business. A suddenly flattened revenue line can destroy buyer's value. While the OTAF Director is vetting the bankers the CEO can keep driving the business.

OTAF management maintains a list of investment banking firms which have had impressive success in smaller M & A transactions (i.e. under \$100 million). It will be provided to OTAF Directors upon request.

The selected banker should be able to add some non-industry players to the TSB list. These might include private equity shops, venture capital firms with portfolio companies needing our company's strategic assets and capabilities, plus other financial engineers. Prior to commencing banker interviews the BOD should agree upon the minimum requirements of a winning bid so that the "Walk Away Point" is known. The wise BOD frequently re-visits and reconfirms this "Minimum Acceptable Deal."

Additionally, the BOD should be sensitive to the venture's "BATNA" (Best Alternative to a Negotiated Agreement) and especially to changes therein. This is essential to recalibrating the parameters of the "MAD" (Minimum Acceptable Deal).

The OTAF Director will review the list of bankers and consider using these tools and templates in the Appendix:

- Characteristics of an Ideal Investment Banker for OTAF Portfolio Companies
- Investment Banker Questionnaire
- Discussion Questions for Visiting Investment Bankers
- Sample Investment Banker Engagement Letter

Hopefully the selected banker will be successful in soliciting multiple Indication of Interest (IOI) letters. Our Director should then provide OTAF's IOI and LOI Checklist to foster the discussion of the most important considerations in these documents.

Prior to the banker's attempting to move those which have supplied IOI letters to move to the Letter of Intent (LOI) stage, the BOD should seek answers to these questions (if there is a desire to rank them on a basis other than price).

Questions to Prioritize Bidders

- "May we interview some executives who have stayed post sale, plus a few who left?"
- "May we interview the CEO/founder of three companies you have acquired? Would you make the same acquisition again? Would they be delighted to sell their next company to you?"
- "What was the largest surprise or disappointment which surfaced post closing (for both the acquirer and the seller)?"
- "Please explain any litigation which erupted as a result of these three acquisitions."
- "What can you reveal regarding deal terms, hold back, cash/stock blend, earn-outs? Were the earn-outs paid?"
- "What percentage of your acquisitions has historically been extremely successful in your opinion?"
- "What was the commonality among these extremely successful acquisitions?"
- "What can we do to ensure our transaction is subsequently viewed as one of them?"

Summary:

OTAF's mission is to build entrepreneurial wealth across Ohio by investing in ventures which we think might in 3 – 5 years yield the founders/CEOs exit proceeds of \$3 – 5 million. We certainly do not expect that any exit will precisely follow OTAF's Exit Road Map. Moreover, we are reminded by Michael Crichton's observation....."I am certain there is too much certainty in the world."

Nonetheless, we believe following these eight steps will enhance the pace and profits of OTAF's exits for the benefit of our portfolio company founders and CEOs.

Submitted by: John O. Huston (November 21, 2011)

APPENDIX LIST

A: **Early Exits** synopsis (page 12)

B: **Strategic Entrepreneurism** synopsis (page 16)

C: **Ultimate Exits** synopsis (page 20)

D: TSB Marketing & Networking Plan (page 25)

E: Characteristics of an Ideal Investment Banker for OTAF Portfolio Companies (page 28)

F: Investment Banker Questionnaire (page 30)

G: Discussion Questions for Visiting Investment Bankers (page 34)

H: Sample Investment Banker Engagement Letter (page 37)

I: M & A IOI and LOI Checklist (page 43)

J: **Ultimate Exits** checklists (page 46)

APPENDIX A

Early Exits Synopsis

Early Exits Synopsis

Basil Peters:

Basil's degrees include a Diploma of Technology in Electrical Engineering and Electronics from the British Columbia Institute of Technology (1973), a Bachelors of Applied Science in Electrical and Computer Engineering from the University of British Columbia (1977), and a Ph.D. in electrical and Computer Engineering from the University of British Columbia (1982). While still in grad school Basil co-founded Nexus Engineering, which grew to seven companies with over 300 employees with operations in five Canadian cities plus London, Hong Kong, and Jakarta. The first company in the group became the second largest manufacturer of cable TV headends in the world with installations in over 100 countries. In 1993 Nexus was sold to Scientific Atlanta (NYSE: SFA), and, as Chairman, Basil orchestrated the sale.

Basil then worked in Silicon Valley as the CEO of ICTV, Inc., an interactive television company funded by IBM, Cox Cable and the Lauder Venture Fund. Today Basil is a member of the Bellingham Angel Group, and is an Entrepreneur in Residence at Simon Fraser University where he helps students and faculty spin-off university research into promising technology companies.

Early Exits:

Page 17: "The End of the 'Swing for the Fences' Era: A different financing landscape for entrepreneurs has been emerging over the past few years and will continue to evolve in this new financial climate. This new reality favors investments in promising young companies by angel investors, who will often achieve an exit within a few years instead of following the riskier, and much longer, funding patterns of the traditional venture capital industry."

Page 18: "My premise is that startups and emerging companies should adopt this new, simple approach....start small, stay lean, raise only the funding you really need, grow the business judiciously and then execute an early exit."

Page 19: "This book is about the large number of other exits...the ones that are not driven by the VC's. The largest number of exit transactions today are in the under \$30 million valuation range. Most of the strategies and exits described in this book don't work for traditional VC's. In fact, many VC's react quite negatively to many of the observations and ideas presented. This is not surprising, as this is not good news for the traditional venture capital investment model."

Page 20: "This new exit reality has new rules and new opportunities.....some of which include:

- ✓ Exits occurring in only two to three years
- ✓ Most transactions under \$30 million
- ✓ Small M & A markets are much less efficient (often a very good thing).

Page 24: "Possibly the best thing about exits is that they almost always make everyone happier and more excited about the future.....and that's contagious."

Page 32: "It seems pretty clear that the optimum strategy for tech startups today is to design the company, and its corporate DNA, so everyone is aligned around the idea of a company acquisition in the under \$30-million range. The good news is that these exits can often be completed in just a few years from the startup. They also have a much higher probability of success than swinging for the fences and hoping for a big NASDAQ initial public offering."

Page 43 "One unwritten agreement that is increasingly well understood is that the entrepreneurs agree to not only work to increase the value of the shares, but they also commit to working toward achieving liquidity for their investors."

Page 59: “The Bottom Line: Angels are usually happy to make 3 – 5X returns on their investments within a three to five-year timeframe. This translates to an exit for the entrepreneurs of about four to seven years with a multi-million dollar capital gain. What this means for angels and entrepreneurs is that if you think your company might be a candidate for an exit in three or four years, in the most common valuation range of under \$30 million, you just can’t let a traditional VC invest.”

Page 66: “One factor driving the trend toward early exits is the realization by entrepreneurs that the first \$10 to \$20 million of shareholder value is the easiest to create. Young companies, like young children, want to grow quickly. When companies are young it’s easy to maintain year-on-year compound annual growth rates of 100%...or even 200%. At these growth rates it’s also pretty easy to grow revenues to \$2.5 to \$5 million. Depending on the type of company, its profitability and the value of its customers, sometimes that’s all you need to create the first \$10 to \$20 million of shareholder value.”

Page 68: “While still a theory, I think successful early exits are more likely to create serial entrepreneurs. Here are some of my anecdotal observations:

- ✓ An early exit means that the CEO will have spent less time in the job and may not have become tired of doing it.
- ✓ Early exits can also often mean that a successful founder puts some real money in the bank, but not usually enough to permanently retire. This cash in the bank is often enough to provide a lot of the startup financing for a next venture.
- ✓ Exiting also feels better than being replaced by the VC’s.

Page 68: According to the Canadian Guide to Successful Business Financing.....”It is an amazing fact, yet little known outside the venture capital industry, that many venture capital firms force the replacement of the chief executive officer in more than 75% of the companies in which they invest. This usually occurs within eighteen months of the initial investment.”

Page 81: “Most angel investors agree that until you have been closely involved with one or two dozen early-stage companies, the full impact of alignment is underappreciated.”

Page 82: “It’s critically important for the company founders and board to be aligned on the exit strategy because the exit strategy is a prerequisite to determining the best way to finance the company.”

Page 83: “Early exit strategies and exits under \$30 million are almost always incompatible with VC investors.”

Page 85: “Share and option vesting is one of the most important elements of corporate structure.”

Page 88: “There is also increasing agreement that up to half the value than an investor realizes on an investment is often created during the last few months of an investment’s lifecycle, during the exit. As a result, today many experienced serial entrepreneurs and investors believe the fairest and most equitable vesting formula is one that makes explicit this implicit contract to create liquidity and a value increase upon exit.

The means that the fairest and most equitable structure, and the one that maximizes the alignment between the founders and the investors, is to vest:

- ✓ 50% of the shares daily over a three-year period.
- ✓ The remaining 50% when there is a sale of the company.
- ✓ All vesting for senior employees accelerates on the sale of the company.

Page 94: “The best time to sell a company is when the future has never looked brighter. The additional value that can be realized on an upward trend is usually more than the ultimate increase realized if the current shareholders hang on until the peak in value is obvious.”

Page 98: “The important moral to this story is that ‘stuff happens.’ If the sellers are happy with a value then the best strategy is to push as hard as you can to get the transaction closed and the cash in the bank. You never know what kind of stuff is about to happen.”

Page 99: “Every company needs an exit strategy and an exit plan. Ideally, the exit strategy should be agreed upon by the founders before the first dollar of their investment goes into the company.”

Page 101: “Ideally, the exit strategy should be agreed upon by the founders before the first dollar of investment goes into the company.”

Page 102: “Selling a company is just another business process. Designing and executing the exit well can easily make half again as much money as all the hard work that goes into every other business activity so it is often the most lucrative of all business processes. It can also be the longest and the most complex.”

Page 104: “For almost all externally financed technology companies the ultimate goal is to sell the company. To achieve this most important goal and do it well, the exit strategy and the exit plan have to become part of the corporate DNA. The exit strategy must be clearly articulated, recorded and reviewed regularly. The exit plan is arguably the most important business process in the company. With these philosophies front of mind and with reasonable attention to the process, your company will exit earlier and for a better price.”

Page 128: “The financial results in the months leading up to the final pricing negotiation are the most important in the company’s history.”

Page 132: “Any board that lets the CEO exclusively lead the exit is, in my opinion, doing a very poor job at best and is negligent at worst.”

Page 132: “While there is no way to validate this, I believe a ‘good’ advisor or broker can often increase the prices by 25 – 50% and reduce the total time by a third.”

Page 134: I believe a really ‘good’ M&A advisor can often increase the final selling price by 25-50%, and reduce the total transaction time by a third.

Page 157: CONCLUSION: Today, the optimum financial strategy for most technology entrepreneurs is to raise money from angels and plan an early exit to a large company in just a few years for under \$30 million.”

APPENDIX B

Strategic Entrepreneurism Synopsis

Strategic Entrepreneurism Synopsis

Jon Fisher and the BHAROSA Story

Jon Fisher:

Jon studied political science & economics at Vassar College, but dropped out to focus full-time on his first start-up (Auto Reach, a car leasing and buying service on the internet) which he sold at age 23 to Tasha Automotive (which became AutoNation). He later earned an undergraduate degree in Organizational Behavior from the University of San Francisco.

Strategic Entrepreneurism:

Page 3: “The basic idea behind Strategic Entrepreneurism is to refocus your goal. Instead of trying to become the one dominant company in your market, Strategic Entrepreneurism says that you want to be the one company that a larger and more dominant company wants to acquire.

From day one, create and design your company to become an attractive acquisition candidate. Identify the companies that you believe would most benefit from acquiring your company.”

Page 13: “I knew what types of companies Oracle wanted to buy, so I made sure I made Bharosa into the exact type of company that Oracle would acquire.”

Page 15: “....you must build your company’s products so that they can be seamlessly integrated with a potential acquirer in mind.”

Page 27: “In Strategic Entrepreneurism, the goal isn’t to reach an IPO but to sell out to an acquiring company much earlier. The drawback is that the potential valuation is much less, but the major advantage is that it takes less time, which also increases the chance of success.....”

Page 27: “.....the longer a company stays in business, the greater the chance of failure, either through changing market conditions or growing competition.”

Page 35: “As a general rule, the more money venture capitalists pour into your company, the less money will be left for you.

Page 48: “Rather than inventing a new product and spending your time and resources trying to find a market for it, just go straight into finding a problem that needs to be solved in the first place.”

Page 49: “The key is to focus on the needs of not just any customer, but on a strategic customer. By strategic, I mean that you want the type of customer that a larger company (a potential acquiring company) would want, or that a larger company already has, but to whom it would like to sell more services for greater profit and with tighter integration to keep that customer from switching to a competitor.”

Page 52: “The idea of designing a startup to be acquired may seem counter-intuitive, but it greatly simplifies the path to success. You focus on selling to a strategic customer of a potential acquirer, and then you sell your company to that acquirer.”

Page 61: “....you must focus your limited resources on attracting the types of customers a potential acquiring company might want.”

Page 62: "Ideally, each person on your team should provide two types of resources. First, that person's skills or experience should help the company get started; second, that person should also offer contacts or skills that would help make your company attractive to a potential suitor."

Page 62: "Ideally, every member of your team can help your company get started and get acquired."

Page 65: "You don't just want any customer; you want the type of customer who can help establish your company as the leader in its field."

Page 81: "A customer is more than just a source of income. The right customer can help you design your product, test your product so you can market it to others, provide you with a steady cash flow, help you attract more customers based on the reputation of your existing customers, and help you attract a suitor who wants your customer base."

Page 99: "Perhaps the most important factor in any company's success lies in choosing customers who ultimately define your path to success."

Page 100: "Remember, the quality of any product doesn't determine the success of a business. Finding your best customers determines the success of your business. The more focused you are on how wonderful or unique your idea for a product may be, the more likely you'll overlook the crucial step of finding your best customers."

Page 105: "If you don't involve your potential customers early in your startup's product design, you may be surprised how far off the mark you may be."

Page 111: "The more important your strategic customers are to others and the closer these strategic customers are linked to your own company (through their involvement in designing your product), the more attractive your company becomes as an acquisition target."

Page 122: "As a general rule, if you're spending money on anything that won't directly help your company produce a product that it can sell, you're probably wasting money."

Page 149: "Practicing Strategic Entrepreneurism means returning the most amount of capital to investors and employees in the shortest amount of time while providing a service or product that meets a pressing need."

Bharosa:

The name means "trust" in Hindi

He launched the venture in May, 2003

Jon's sole goal from the launch was to grow the company to be acquired

He focused precisely and diligently on selecting strategic customers which would impress his targeted potential acquirers.....rather than landing the largest or easiest accounts.

He raised just \$2 MM of outside capital (all from angels); the founding team retained well over 50% ownership.

He eschewed VC's for Bharosa, and does in general.

Per page 12: "Bharosa gave investors a six-fold return on their investment within a three-year time frame."

In well under four years Bharosa designed and delivered to the market two products:

- A) Tracker: verifies the device a user is coming from and assesses the threat the user poses
- B) Authenticator: a virtual token to protect sensitive data, such as passwords and PIN's.

By July 2007 he had grown the company to:

A) A customer base of >25 million users via his 30 enterprise company customers, which included three of the top ten U.S. banks and five of the country's top 25 credit unions. Notable customers included Wells Fargo, the USAF, and the Desert Federal Credit Union.

B) 50 FTE's

C) The price tag for Bharosa's products ran from \$100,000 to \$1 million per client, depending upon the number of users in the organization.

D) Revenues were "south of \$20 MM and north of \$5 MM"

E) Positive EBITDA in July 2007 when he sold Bharosa to Oracle

The purchase price has not been divulged, however speculation at the time of sale was that Fisher would have been quite happy with \$30 MM; it is presumed Oracle paid in the \$20 - \$30 MM range. Note: around the same time Entrust acquired Business Signatures for \$50 MM, and RSA bought both PassMark and Cyota (both security start-ups; Prices withheld). These were cited as indicators of Bharosa's estimated take-out price tag.

APPENDIX C

Ultimate Exits Synopsis

Ultimate Exits Summary

(See Appendix J for checklists from the **Ultimate Exits** workbook)

Tom McKaskill:

Having written eight books, Tom is the most prolific writer I've found on the topic of building and then extracting investors' value from young ventures. His 2006 book (**The Ultimate Deal 1**) provides an excellent roadmap for company owners seeking to sell their profitable business to a financial buyer. His first book aimed at high growth ventures designed for an exit to strategic buyers was also published in 2006 (**The Ultimate Deal 2**). It was a seminal work which Tom has now updated via his **Ultimate Exits** and **Ultimate Exits Workbook**. Tom is quite global in his experience, investing, and education. Although he currently lives in Melbourne, Australia, he has worked in Kansas, and Georgia. His Ph.D. is from the London School of Economics.

Tom's experience with young companies exceeds that of both Basil Peters and Jon Fisher, but like them he is focused on the exit. Of particular value to our group is his disciplined approach to identifying those companies in whose hands a venture has the greatest value.

Ultimate Exits:

The reading assignments in this book are only chapters: 1, 7, 8, 9, and 11, which comprise 95 pages of the 268 total pages. The quotes below have been taken from these five chapters.

Page 2: "The valuation methods applied by the vast majority of professional advisors, business brokers and investors have been developed around conventional businesses and were never designed to take high growth potential into account. So, of course, the valuation calculated by their advisors does not make sense to the high growth venture entrepreneur."

"The current methods of business valuation are backward looking. By that I mean they look to historical performance to measure a firm's worth."

Page 7: "To begin to understand a methodology for calculating a sale value for high growth potential business, we need to start by examining the manner in which buyers see value in a potential acquisition."

Page 10: "Fundamental to the sale process is an understanding of the value which the buyer will extract from the business. The purchase price (value of their investment) is derived from their estimate of the future stream of income discounted by their estimate of the risk rate or their required rate of return."

Page 11: "If you want to extract the highest sale price for the business you should be seeking out a buyer who can exploit the business better than you can. The process of sale preparation should be to reduce risk in the business to the buyer and to create future potential for the business way beyond the current owner's capacity and capability. By finding multiple potential buyers who can generate greater value in the business in the future than that which could be generated by the current owner, the seller can readily achieve a premium on the sale."

Page 12: ".....strategic value businesses create value by enabling a large corporation, the strategic buyer, to exploit a significant revenue opportunity created through the combination of the two companies. The strategic seller builds value by developing strategic assets and capabilities which a large company will exploit."

(n.b.: This is Tom's basic premise about achieving capital efficiency.....expend scarce capital only on building strategic assets and capabilities valued by the targeted acquirers.)

Page 14: "Probably about 95% of all private businesses which are sold are acquired by a financial buyer."

Page 88: “Large corporations don’t just make acquisitions to solve problems, we should be alert to the fact that most large corporations buy in their revenue generating innovations. Thus a small company which can offer an innovation which enables a large corporation to generate significant new revenue would be an attractive acquisition as long as the investment provides a healthy return.”

“Note that in both these situations the strategic value of the acquisition is related to the problem or opportunity being addressed by the acquirer not the conventional financial value of the business being acquired. This is the key to extracting a premium on sale.”

Page 89: “One approach to finding the right strategic acquirer is to find a potential buyer who has a serious problem you can solve.”

Page 95: “Most acquisitions are made to take advantage of synergies which can be leveraged through combining the businesses. The most attractive of these scenarios is where the buying corporation can leverage the acquired assets or capabilities to open up new markets and/or generate significant new revenue.”

“The objective of the selling firm is to identify the match between what they have or do with the potential opportunities which those assets or capabilities create. They then have to find those large corporations which have the capabilities and capacities to clearly exploit one of these opportunities through an acquisition. To the extent that the selling firm is more able to provide the solutions (better fit, more timely, less problems in the acquisition), or more able to enhance the opportunity (fit, scalability, less problems in the acquisition), the better the price which can be negotiated.”

Page 107: “The best position for the seller to be in is to have solutions which play to multiple needs, especially of reducing a threat while offering access to new markets. The threat places time pressure on the buyer while the rewards of new products or new markets allow them to more easily justify a premium price.”

Page 107: “The key to a strategic deal is to find the match between what the selling firm has or can do with a set of large corporations which either need or can greatly exploit the assets and capabilities of the vendor. In order to optimize this match and determine where the highest sale price can be secured, you need a very good understanding of how to identify strategic assets or capabilities and also an understanding of how to identify the best strategic buyers.”

Page 108: “...we have to be willing to go on a discovery mission to look inside our business to discover what we have or do which can leverage such deals. The fact that our business may not be using the specific asset or capability to generate revenue, or may not even be aware of its existence or may be incorrectly applying it, simply makes the task harder.”

Page 109: “**Strategic assets** in this context are those things which a business **has** which can eliminate threats or provide opportunities for the buyer.”

Page 110: “**Strategic competencies or capabilities** are things which the firm **does** especially well which can be leveraged or can solve a problem for the acquirer.

Page 117: “Generally speaking, a higher strategic premium can be gained where the buyer generates new revenue rather than solves a problem. We also need to recognize that early revenue is more valuable to the buyer than revenue earned in later future periods. Thus focusing on what the firm has which can drive significant revenue over a short time period inside a large corporation immediately or soon after the acquisition will most likely identify the best strategic assets or capabilities.”

Page 118: “Remember that strategic value potential needs to be seen within the context of the potential buyer’s business not that of the vendor.”

(n.b.: Tom is adamant about how often young ventures suffer from “The Curse of Knowledge” which causes them to assess the value of their strategic assets and capabilities solely from their viewpoint, and not from the view of potential bidders. His relentless focus is on building “Buyers Value” and not just the generic Shareholders Value which appears on the balance sheet.)

Page 134: **Target Customer Check List:** (Notice how much better Jon Fisher addresses this topic.)

Page 137: “If you decide to prepare the business for a strategic sale, you need to have an evaluation process which helps you identify strategic assets or capabilities.”

Page 140: “The ultimate strategic buyer is the one which can best utilize the underlying assets and capabilities of the firm. Once the assets and competencies are identified, the search starts for those corporations which can best leverage them.”

Page 150: “Your selection criteria for the buyer should also look at their experience in acquisitions, whether they have dedicated staff to handle the negotiations and integration and whether you think they will be a willing rather than a reluctant buyer. You don’t want to spend your time educating the buyer on how to do an acquisition nor do you want to be dependent on them making it work where you have some possibility of a claw back or potential litigation if they fail.”

Page 151: “Successful corporations had several characteristics in common:....” (see page 151 for the list)

Page 154: “If the potential buyer has made prior acquisitions, part of your due diligence on them should be to examine the success or failure of their previous acquisitions. Serious acquirers understand this and should be willing for you to interview the founders and some of the former executives who stayed with the merged business and perhaps some of those who left.”

Page 157: “Once you have the list of potential buyers, you need to work out what you have to do to make a compelling case for each one. A major part of the preparation is to ensure the buyer can quickly exploit the strategic assets or capabilities.”

Page 172: “The value which you will receive for your business is directly related to the level and timing of the revenue and profit which the buyer can extract from the acquisition. The longer it takes for the buyer to exploit that value, the less it is worth to them.”

Pages 177: A good rule of thumb for any acquisition is to set a target of breakeven or cash flow positive on the investment within two years....the size of the gross margin achieved from new revenue in the first two years is probably the limit on what the value of the acquisition is to the buyer....an acquisition which has a quick payback is going to be much more attractive.”

Page 183: “You need to build a scenario for how the buyer would exploit your potential. Assuming the funds and internal support are not constraints, how would a buyer best scale a program to maximize the revenue?”

Page 185: “Many firms with strategic value make the mistake of putting their effort into growth in revenue and profit when, in fact, this is not the basis on which they will achieve their maximum sale value.”

(n.b.: Again, Tom espouses that to avoid squandering precious capital, expend it solely on building strategic assets and competencies which build “Buyers Value” and not Shareholders Value as shown on the balance sheet.....or in the minds of some unidentified potential bidders.)

Page 186: “The key consideration in a strategic sale strategy is to grow the firm only to the level of revenue and profit necessary to provide the critical size which would allow the acquirer to properly exploit the potential.”

“Since strategic value is coupled to an asset or capability, enhancing the underlying assets or capabilities may add more value to the sale price than additional revenue and profit. So, instead of pushing the business to achieve higher levels of revenue and profit, you should be investigating how you can enhance the strategic value.”

APPENDIX D

TSB Marketing & Networking Plan

Targeted Strategic Bidder (TSB) Marketing & Networking Plan

Provided the company has its IP fully protected, the team should use this plan to increase awareness in the market and among TSBs.

1. Plan your interactions

- A. Develop and practice the elevator speech for the company; what is the value prop for this particular TSB?
- B. Know the TSB's org chart and map out influencers and decision makers
- C. Monitor each TSB's activities using the OTAF tracking database and search for noteworthy press releases and financial reports
- D. For each TSB assign the designated point of contact at our portfolio company. While this is often the CEO, sometimes the technical team can be more effective
- E. Stay focused on the specific decision makers. When attending conferences do so with precise goals of interacting with just those at the TSCs and TSBs which can help.
- F. Endeavor to learn the acquisition criteria and approval process at each TSB. For instance, are there cut-off deal amounts (e.g. \$50 MM) which require escalating levels of approval and vetting?
- G. Set milestones to measure progress

2. Build a network

- A. Use online networking tools such as LinkedIn to find connections
- B. Identify investment bankers that represented the sellers
- C. Rely on assigned partners at the VC firm or request help from OTAF members
- D. Consider pursuing customers, suppliers, industry consultants associated with any TSB

3. Create occasions, if necessary

- A. Be a speaker or organizer of an event related to TSB decision makers
- B. Organize a conference in the company's space
- C. Conduct research by inviting TSB's key personnel to discuss an industry problem
- D. Follow Up and help others make connections
- E. Build your company's brand and broadcast your brand at 'inflection points'

4. Use TSCs to identify unsolved problems that TSBS would value.

- A. Seriously consider refocusing energy and capital to your most strategic customer's and likely acquirer's needs. Do not treat all customers and prospects alike!
- B. Per Jon Fisher in ***Strategic Entrepreneurism***, "From day one, create and design your company to become an attractive acquisition candidate. Identify the companies that you believe would most benefit from acquiring your company."
 - "I knew what types of companies Oracle wanted to buy, so I made sure I made Bharosa into the exact type of company that Oracle would acquire."
 - "...you must build your company's products so that they can be seamlessly integrated with a potential acquirer in mind."
 - "Rather than inventing a new product and spending your time and resources trying to find a market for it, just go straight into finding a problem that needs to be solved in the first place."
 - "...you must focus your limited resources on attracting the types of customers a potential acquiring company might want."
 - "You don't just want any customer; you want the type of customer who can help establish your company as the leader in its field."
 - "If you don't involve your potential customers early in your startup's product design, you may be surprised how far off the mark you may be."
 - "The more important your strategic customers are to others and the closer these strategic customers are linked to your own company (through their involvement in

designing your product), the more attractive your company becomes as an acquisition target.”

C. Make sure there is an ongoing plan to involve and update TSCs and ensure they are designed to be an integral part of company’s business future.

5. Intentionally market messages, increase knowledge with targeted questions and build relationships with TSBs.

APPENDIX E

Characteristics of an Ideal Investment Banker for OTAF Portfolio Companies

Characteristics of an “Ideal” Investment Banker for

OTAF Portfolio Companies:

- ❑ *SELLER INDUSTRY CONNECTEDNESS/DEAL FLOW:* Current firm principals have high degree of familiarity with companies like the OTAF portfolio company, and have handled significant number of recent exits for companies like the OTAF portfolio company (same industry subsector/sub-subsector, product category, etc.);
- ❑ *BUYER CONNECTEDNESS/DEAL FLOW:* Current firm principals have high degree of connectedness to likely buyers of the OTAF portfolio company (regionally, nationally, internationally), and have handled significant number of recent exit transactions with those buyers;
- ❑ *RESOURCES:* Assured access to sufficient high-quality research, analytical, information, human and other resources necessary to produce an exit fully satisfactory to portfolio company and its shareholders;
- ❑ *PRINCIPAL INVOLVEMENT:* Firm sized, structured and functioning so middle-market clients can readily capture and hold interest/involvement of current firm principals who excel at conceiving, planning and executing exits for middle-market, Angel-funded companies;
- ❑ *VALUE PERCEPTION/PRESENTATION:* Ability to realistically and fully value an OTAF portfolio company, to capably present that value to prospective purchasers and to capture the full value in the company's exit;
- ❑ *DEEP VALUE INSIGHT:* Ability to fully discern hidden/underappreciated value(s) of an OTAF portfolio company and fully capture the value(s) in the consideration received for that company's exit;
- ❑ *COMPLIANCE:* Willingness and ability to perform all functions/services necessary to completion of a successful exit in full compliance with all applicable federal and state regulatory requirements;
- ❑ *VALUE CONFERRED:* High ratio of value(s) received by exiting portfolio company as a result of IB's services/involvement in exit to total cost of IB services/involvement;
- ❑ *TESTIMONIALS:* Substantial number of highly-satisfied individuals/companies for whom the IB as it presently is constituted/staffed recently conceived, planned and executed a successful exit or exits.

APPENDIX F

Investment Banker Questionnaire

Investment Banker Questionnaire

Background Questions:

- 1) Is your firm a broker dealer? Are all your intermediaries securities licensed? Are they registered in Ohio? Will they become registered in the acquirer's state before close?
- 2) Are you a member of SIPC? FINRA or other Self Regulatory Organization (e.g. NYSE)?
- 3) Do you specialize in sell side engagements, or do you also represent buy side clients? If both, what has been the deal flow and relative importance of each over the last two years?
- 4) Discuss your assessment of the current M & A market for companies like ours, plus your outlook for the next 12 months.
- 5) What deal structures are you seeing today for firms like ours? What are the holdbacks, claw backs, and earn-outs? What percentage of CEO's has remained at the helm six months post closing? Among your engagements over the last 12 months, how prevalent have all cash deals been?
- 6) Do you have any conflicts of interest/other relationships which prohibit your bringing forth specific bidders?
- 7) Does your firm have a professional research department, or must research be done by those on our deal team? What proprietary databases do you use/prefer? Would you like to have access ours?
- 8) Explain your methodology for establishing our enterprise's valuation and likely price range.
- 9) What do you perceive to be our most valuable strategic assets and capabilities?
- 10) What specific KPI's (Key Performance Indicators) do you think drive value in our industry?
- 11) Explain your firm's transaction methodology, process, and typical project plan.
- 12) If we track your typical project plan, what timeline do you foresee for this engagement?
- 13) What percentage of your engagements has closed above or below your estimated valuation range? What percentage was terminated or never closed? What likelihood of success would you assign to our transaction being consummated within your target price band?
- 14) Please divulge all litigation (settled or in process) which has been brought by your clients in the last decade.
- 15) Tell us about an engagement you've completed with an international purchaser. Does your firm have any affiliations with international firms? Among your successful transactions over the last two years for what percentage were you able to attract at least one international bidder? Have you ever attracted an international bidder for a company like ours? To what extent were you, or our deal team members, personally involved?
- 16) What do you sincerely think is your firm's most important defining difference which will impact the success of this engagement?

Project Design and Management Questions:

- 17) Do you plan to approach any financial buyers? Why? Are you in contact with any private equity firms seeking to lead a roll-up in our industry? Could our company be a foundation for such an initiative?
- 18) Will you approach any international bidders? If so, with which ones do you have an historic relationship from prior deals?
- 19) Provide an overview of your likely work plan for this project.
- 20) When in the process do you plan to contact our direct competitors? When must we provide our approval for you to do so?
- 21) Explain how you typically manage confidentiality. What's your timing for requiring NDA's?
- 22) How do you usually move potential bidders from providing an "Indication of Interest" to submitting a "Letter of Intent?" In your personal experience, what has been the largest cause of attrition?

Deal Team Questions:

- 23) In how many other engagements are our team members currently involved? Please answer specifically for your firm's senior partner assigned to our transaction.
- 24) Who will actually draft the Confidential Information Memorandum? With whom on our management team must they interact? What is the earliest date this must occur?
- 25) Who is expected to deliver our due diligence materials into the electronic data room? What is the earliest date?
- 26) Discuss the progress reporting you will provide.
- 27) When must our CEO become deeply mired in this project? Same question for our C-level officers. How long can you keep this off their plate so they can stay focused on growing sales momentum in case you fail in this engagement?

Track Record/Experience Questions:

- 28) Discuss your previous engagements for companies which are most similar to ours. Were these completed by you personally, others on our deal team, or others in your firm?
- 29) Which previous bidders in these transactions might view us to be a fit? Can you get them to the table again?
- 30) We have revealed to you our targeted top five preferred strategic bidders. Have you ever consummated a deal with any of them? If so, will the same people at these companies likely to be involved in bidding for us? Do you concur that these are the five firms which would benefit most by acquiring us?
- 31) Discuss a successful transaction about which you are extremely proud. What made it effective? What issues did you overcome? What strengths did you bring to bear? What aspects are applicable to this engagement?
- 32) Describe one of your transactions which encountered a seemingly insurmountable obstacle. How did you overcome it? Are there similarities to this engagement? How can we work together to minimize them?

33) Describe one of your failed engagements.....i.e. you failed to sell the company, or the price was woefully below your target range. Why did you fail? What would the venture's CEO say about the causes and your personal efforts? Your firm's efforts? May we call him/her?

34) What do you envision to be the most likely cause of your failing to consummate a transaction within your proposed range of values and timeline? How can we work together to avoid this outcome?

Compensation Questions:

35) Explain your fee structure (success fees + work fees + expenses). Are your work fees netted against your success fees at close? Do you have a minimum fee structure? Do you allow the portion of success fees related to contingency/note/earn-out payments to be paid as those contingency/note/earn-out payments are made?

36) What is your engagement tail? Over the last two years how many times have you divorced a client, thereby bringing the tail into potential play?

Other Assessment Factors for the BOD to Consider:

37) How do we feel about the chemistry with the firm's assigned team members?

38) Over the course of our conversations and dealings with these individuals has our level of trust waxed or waned? Based on our interactions to date, would we recommend them to the BOD's of other OTAF ventures?

39) How do we assess the responses from their references?

40) Have they shown much success in negotiating on the soft issues (e.g. treatment of employees, key customers and suppliers, not relocating the workforce, honoring severance packages, etc.)?

APPENDIX G

Discussion Questions for Visiting Investment Bankers

Discussion Questions for Visiting Investment Bankers

Here are topics/questions of greatest importance to our CEO's & their Directors.

- 1) If the investment banker we engage is not affiliated with a FINRA broker/dealer, am I really putting my company/my investors at risk of rescission? Are there any instances of disasters in which deals have been unwound at the small end of the spectrum (i.e. M & A price tag of about \$50 MM?)
- 2) What's your sense of the IT/software M & A market today in terms of momentum/trends; recent interesting transactions?
- 3) What should I expect in a deal today regarding likely escrows, holdbacks and earn-outs, based on your recent deal closings? How do I avoid earn-outs which are unlikely to be achieved? (See #13 below)
- 4) What factors today seem to determine the price-tag for an IT/software company with revenues <\$10 MM and insignificant EBITDA?
- 5) When am I wasting your time? How mature should my company be before I call you?
- 6) What is the profile of your firm's ideal M & A engagement?
- 7) What percentage of your IB engagements with young ventures being positioned today to sell to strategic bidders would you estimate end up being failed engagements (i.e. no exit occurs at any price)? What has been the primary cause of these failures? How can we best work with you to avoid this disappointing outcome?
- 8) Let's chat about VC's.....some of our companies (and all our medical device ventures) need support from the small (\$<100 million) VC's to survive. Do you think they are becoming extinct? Do you like/prefer VC's as clients?
- 9) Could you please share some worst practices or "Hall of Shame" stories to illustrate behavior I should avoid as CEO during our sale process?
- 10) What if I receive a surprise "pre-emptive strike letter" offering an attractive cash price for my company, but no investment bankers are familiar with us. What should I do?
 - A. Seek a fairness opinion? If so, whom do you recommend, and what will they charge?
 - B. Rush to engage a banker to try to swiftly attract other suitors? If so, are many of your firm's engagements of this nature?
 - C. Engage a banker to merely vet the terms and conditions? Would your firm take on such an assignment? If so, at what cost?
- 11) All my Directors are concerned about their fiduciary responsibility if they unanimously recommend to shareholders that a bid from a single suitor be accepted, regardless of how attractive it might appear. In your experience, how likely are they to suffer litigation for not even attempting to get others to the table? What steps should they take to diminish this possibility (e.g. Enhanced "Side A" coverage in our D & O policy)? What factors increase their exposure (e.g. lucrative employment contracts for the CEO and C Level executives)?
- 12) All my Directors have invested personally in our Series A shares and have mentioned they are concerned about "investor to investor" lawsuits in the situation above, yet buying additional "Side A" D & O insurance is exceedingly costly. Can you share any war stories

about litigation arising in successful exits which nonetheless caused some investors to litigate?

13) Reviewing the terms & conditions of OTAF's three lucrative exits reveals that these seem to be the major factors of "a deal". Please comment on any noteworthy recent market trends for each:

- A. Price
- B. Paid How? (stock or cash)
- C. Type of purchase (buy assets or stock)
- D. Reps & Warrants & Covenants
- E. Escrows, holdbacks and earn-outs
- F. Integration Plan for people (Who is essential?)
- G. Integration Plan for the IT systems
- H. Employee Communications Plan/timeline
- I. Stay Bonuses/Options Vesting
- J. Approvals needed (Governmental bodies/Regulators, Major Suppliers and Customer Communications)
- K. Drop Dead/Break-up Fees
- L. Timing: Exclusivity/No Shop/Go Shop period; Closing

14) If you were CEO of one of our portfolio companies and in the process of engaging a Banker, what criteria would be most important to you?

APPENDIX H

Sample Investment Banker Engagement Letter

Date

Dear:

This is to confirm the engagement of (Investment Bank) by (the "Company") to render certain services in connection with a possible business combination (through tender offer, merger, sale or exchange of the outstanding capital stock of the Company, or sale of all or substantially all of its assets or otherwise) of the Company with another party (a "Possible Transaction").

1. **Services to Be Rendered.** Investment Bank will perform such of the following services in connection with the Possible Transaction as the Company may reasonably request:
 - a. (Investment Bank) will familiarize itself to the extent it deems appropriate with the business, operations, financial condition and prospects of the Company;
 - b. (Investment Bank) will assist the Company's management in (i) developing a strategy for pursuing a Possible Transaction involving the Company and a list of possible participants in the Possible Transaction (it being understood that such participants may include parties to whom (Investment Bank) has rendered or is now rendering investment banking services), (ii) preparing a descriptive memorandum that describes the Company's operations and financial condition and includes current financial data and other appropriate information furnished by the Company (as amended and supplemented from time to time, the "Descriptive Memorandum") and (iii) contacting and eliciting interest from those possible participants expressly approved by the Company;
 - c. (Investment Bank) will participate with the Company and its counsel in negotiations relating to a Possible Transaction;
 - e. (Investment Bank) will participate in meetings of the Board of Directors of the Company (such participation to be in person or by telephone, as appropriate) at which a Possible Transaction is to be considered and, as appropriate, will report to the Board of Directors with respect thereto.

In connection with (Investment Bank) activities on the Company's behalf, the Company agrees to cooperate with (Investment Bank) and will furnish to, or cause to be furnished to, (Investment Bank) all information and data concerning the Company, any Possible Transaction and any possible participant (the "Information") which (Investment Bank) reasonably deems appropriate and will provide (Investment Bank) with access to the Company's officers, directors, employees and advisors. The Company represents and warrants that all Information made available to (Investment Bank) by the Company with respect to a Possible Transaction will be complete and correct and that any projections, forecasts or other Information provided by the Company to (Investment Bank) or to any

possible participant, any other party to a Possible Transaction, or contained in the Descriptive Memorandum will have been prepared in good faith and will be based upon reasonable assumptions. The Company agrees to promptly notify (Investment Bank) if the Company believes that any Information which was previously provided to (Investment Bank) or to any possible participant has become materially misleading. The Company acknowledges and agrees that, in rendering its services hereunder, including, without limitation, assisting the Company's management in the preparation of the Descriptive Memorandum, (Investment Bank) will be using and relying on the Information (and information available from public sources and other sources deemed reliable by (Investment Bank)) without independent verification thereof or independent appraisal of any of the Company's assets or those of any possible participant. Furthermore, in evaluating each possible participant, (Investment Bank) will be using information contained in public reports and possibly other information furnished to (Investment Bank) by such possible participant. (Investment Bank) does not assume responsibility for the accuracy or completeness of the Information or any other information regarding the Company, any possible participant or any Possible Transaction. If all or any portion of the business of the Company or any possible participant is engaged in through subsidiaries or other affiliates, the references in this letter agreement to the Company or the possible participant will, when appropriate, be deemed also to include such subsidiaries or other affiliates.

In order to coordinate most effectively our efforts together to effect a Possible Transaction satisfactory to the Company, the Company and its management will promptly inform us of any inquiry they may receive concerning the availability of all or a portion of the stock or assets of the Company for purchase. Also, during the period of our engagement, neither the Company nor its management will initiate any discussions looking toward the sale of all or a portion of the stock or assets of the Company without informing (Investment Bank).

It is further understood that any advice rendered by (Investment Bank) pursuant to its engagement hereunder, including any advice rendered during the course of participating in negotiations and meetings of the Board of Directors of the Company, as well as any written materials provided by (Investment Bank), will be solely for the benefit and confidential use of the Board of Directors and will not be reproduced, summarized, described or referred to or given to any other person for any purpose without (Investment Bank) prior written consent.

2. **Fees.** The Company agrees to pay (Investment Bank) a monthly retainer fee of \$6,000 per month, with the first installment due upon the execution of this letter agreement. In the event that the Possible Transaction is consummated, the Company will pay or cause to be paid to (Investment Bank) a fee equal to 3.0% of the total consideration received by the Company and its stockholders as a result of such consummation (the "Transaction Consideration") up to \$5.0 million or \$150,000 plus 6.0% of the amount by which the Transaction Consideration exceeds \$5.0 million if the Transaction Consideration is in excess of \$5.0 million (the "Success Fee"). The Success Fee will be reduced by 50% of the retainer amount paid as of the consummation of the Possible Transaction.

For purposes of this letter agreement, the term Transaction Consideration will mean the total amount of cash and the fair market value of all securities or other property paid or payable directly or indirectly (including payments into escrows) to the Company or any of

its security holders in connection with a Possible Transaction which is consummated, including, without limitation, (i) amounts paid (A) to holders of any warrants or convertible securities of the Company net of the exercise price of such warrants or convertible securities and (B) to holders of any options or stock appreciation rights issued by the Company net of the exercise price of such options or stock appreciation rights, whether or not vested; (ii) the total amount of indebtedness for borrowed money or similar non-trade liabilities or obligations of the Company repaid, retired, extinguished or assumed in connection with the Possible Transaction, or which otherwise remains outstanding with the Company or any affiliate thereof as of the closing of a Possible Transaction or which is assumed by the acquiror or an affiliate thereof; and (iii) in the case of a sale of substantially all the Company's assets, the total consideration paid for such assets plus the net value of any current assets not sold by the Company. Transaction Consideration will not include cash on the Company's balance sheet in excess of \$350,000.

The fee payable to (Investment Bank) upon consummation of the Possible Transaction will be payable in full, in cash, upon the closing of the Possible Transaction. Notwithstanding the foregoing, if the consideration paid by the Company is to be paid in whole or in part on a contingent or escrowed basis, the portion of the (Investment Bank) fees relating thereto shall be paid when, and as such, payments are received by the Company or its shareholders.

3. **Expenses.** The Company will reimburse (Investment Bank) for all out-of-pocket expenses reasonably incurred by it in connection with its engagement hereunder. Such reimbursement will be payable promptly upon submission by (Investment Bank) of statements to the Company.
4. **Indemnification.** In the event a dispute arises regarding the services provided under this Agreement, (Investment Bank) liability to the Company shall not exceed the fees the Company paid under the terms of this Agreement. In no event may the Company claim or receive any amount as punitive, exemplary or consequential damages. The Company agrees to defend, indemnify and hold harmless (Investment Bank) and its members, managers, officers, directors, employees, representatives and agents (collectively, the "(Investment Bank)Indemnified Parties") from any and all liability, damages, losses, costs and expenses (including reasonable attorneys' fees) arising in connection with any incorrect information provided by the Company or any of its management or representatives. Except for claims arising from acts of gross negligence or willful misconduct by (Investment Bank)(or any other (Investment Bank)Indemnified Party), the Company agrees to defend, indemnify and hold harmless the (Investment Bank)Indemnified Parties from any and all liability, damages, losses, costs and expenses (including reasonable attorneys' fees) arising from damage to, or loss of, tangible personal property of(Investment Bank), caused by the gross negligence or willful misconduct of the Company and arising in connection with (Investment Bank) performing the services provided under this Agreement.

In addition, the Company hereby agrees to indemnify (Investment Bank)(and any other (Investment Bank)Indemnified Party) and hold it harmless for all acts taken or omissions, and all decisions made, by (Investment Bank)(other than as a result of (Investment Bank) gross negligence or willful misconduct) while performing services for the Company and agrees to pay directly, upon presentation thereof, all statements or invoices for all fees and expenses, including reasonable attorneys' fees actually and necessarily incurred by

(Investment Bank)(and any other (Investment Bank)Indemnified Party) in connection with the defense of any such claims based on (Investment Bank) alleged acts, omissions or decisions (other than made or taken through gross negligence or willful misconduct), including any suit or proceeding relating thereto and any appeal therefrom and the costs of any settlement thereof ("Claim"). (Investment Bank) shall have the sole right to select counsel of its choosing and control the defense of any such Claim. The provisions of this Section 4 shall survive the term of this Agreement.

The parties acknowledge that (Investment Bank) has set its fees and entered into this Agreement in reliance upon the limitations of liability and the disclaimers of warranties and damages set forth herein, and that the same form an essential basis of the bargain between the parties. The parties agree that the limitations and exclusions of liability and disclaimers specified in this Agreement will survive termination of this Agreement.

5. **Termination.** (Investment Bank)engagement hereunder may be terminated by either the Company or (Investment Bank)(___) months from the date hereof, with or without cause, upon written notice to the other party; provided, however, that (a) no such termination will affect (Investment Bank) right to expense reimbursement under Section 3, the payment of any accrued and unpaid fees pursuant to Section 2, the indemnification contemplated by Section 4 and (b) if the Company, directly or indirectly, executes a definitive agreement related to a Possible Transaction within twelve months following the termination of this agreement with any party which (Investment Bank)has identified in writing to the Company at the time of such termination, then (Investment Bank)will be entitled to the full amount of the fee contemplated by Section 2.
6. **Governing Law; Jurisdiction; Waiver of Jury Trial.** This letter agreement will be deemed made in Illinois and will be governed by the laws of the State of Illinois. Each of the Company (and, to the extent permitted by law, on behalf of the Company's equity holders and creditors) and (Investment Bank) hereby knowingly, voluntarily and irrevocably waives any right it may have to a trial by jury in respect of any claim based upon, arising out of or in connection with this letter agreement and the transactions contemplated hereby (including, without limitation, any Possible Transaction).
7. **No Rights in Equityholders, Creditors.** This letter agreement does not create, and will not be construed as creating, rights enforceable by any person or entity not a party hereto, except those entitled thereto by virtue of Section 4. The Company acknowledges and agrees that (i) (Investment Bank)will act as an independent contractor and is being retained solely to assist the Company in its efforts to effect a Possible Transaction and that (Investment Bank)is not being retained to advise the Company on, or to express any opinion as to, the wisdom, desirability or prudence of consummating a Possible Transaction, (ii) (Investment Bank)is not and will not be construed as a fiduciary of the Company or any affiliate thereof and will have no duties or liabilities to the equityholders or creditors of the Company, any affiliate of the Company or any other person by virtue of this letter agreement and the retention of (Investment Bank)hereunder, all of which duties and liabilities are hereby expressly waived and (iii) any advice rendered by (Investment Bank)does not constitute a recommendation to any equityholder that such equityholder might or should take in connection with the Possible Transaction. Neither equityholders nor creditors of the Company are intended beneficiaries hereunder.

8. **(Investment Bank): Other Advisors.** The Company confirms that it will rely on its own counsel, accountants and other similar expert advisors for legal, accounting, tax and other similar advice.

9. **Other.** The Company agrees that it will not enter into an agreement with respect to a Possible Transaction involving a sale of all or substantially all of the Company's assets or operations, unless such agreement expressly provides for the unconditional assumption of the Company's obligations to (Investment Bank) under this letter agreement. This letter agreement may not be modified or amended except in writing executed by the parties hereto. This letter agreement, and any modification or amendment thereto, may be executed in counterparts, each of which will be deemed an original and all of which will constitute one and the same instrument.

If the foregoing correctly sets forth our agreement, please so indicate by signing below and returning an executed copy to us. We look forward to working with you.

Very truly yours,

(Investment Bank).

By: _____

ACCEPTED AND AGREED AS OF

THE DATE FIRST ABOVE WRITTEN

(Company name).

By: _____

APPENDIX I

M & A I.O.I. and L.O.I. Checklists

M & A IOI and LOI Checklists

OTAF Directors occasionally ask about the typical progression of exit documents from the IOI to the LOI, and then to the final transaction documents. The most frequent questions address which issues should be delineated in the Indication of Interest Letter, and which are better left for the follow-on Letter of Intent. Obviously, the more detailed the final LOI, the fewer surprises are likely to surface in the “Agreement and Plan of Merger” documents. This checklist was prepared after reviewing all the documents for OTAF’s previous exits.

IOI Checklist:

- Type of purchase (buy assets or stock)
- Price & consideration (stock or cash)
- Debt Assumption or Prepayment (prepayment fees)
- Treatment of outstanding options, warrants and other awards
- Escrows & Holdbacks (matches the indemnification period?)
- Earn-outs (precision of the milestones?)
- Deal Expenses (Drop Dead/Break-up/Termination Fees)
- Reps & Warrants & Covenants (survive how long into the future?)
- Indemnifications (How long? By whom? Owners, BOD, management, but not investors; Should always be several, never joint indemnifications)
- Required Employees (Employment Agreements signed by when?)
- Confidentiality (How long in effect if no deal occurs?)
- Response date: Duration of this non-binding Indication of Interest Letter?
- Exclusivity Period/No Shop Clause (How long?)
- Targeted Closing Date (often silent on this point)

LOI Checklist:

The Letter of Intent usually adds much more specificity and detail to the IOI items above. In addition to the above, an LOI often includes these additional items.

- Legal Jurisdiction (e.g. Ohio)
- Working Capital Adjustments
- Treatment of Employee Benefit and 401(k) Plans
- Targeted Closing Date
- Conditions to Closing

- Approvals needed (Government bodies and Regulators, Major Suppliers, Customers.....and investors)
 - Interim Conduct (between the signing of the LOI and the closing)
 - Access to book, records, accountants, attorneys, employees, suppliers, customers
 - Cap or Limitations on Indemnifications
 - Integration Plan for employees (Who is essential? When will they be selected/notified? Often signed employment agreements are a condition of closing)
 - Stay Bonuses & Options Vesting
 - IRC Section 280G Disclosure & Consents
 - Employee Communications Plan/timeline
 - Public Announcements/Press Release approvals/timeline
 - Integration Plan for the systems (this can be critical for IT companies and may be a condition of closing, or a milestone for escrow release)
 - Confidentiality is often restated and expanded
-

APPENDIX J

Ultimate Exits Checklists

Ultimate Exits Workbook Exerpt 1 (from p 54):

Awareness and Alignment Index

Nothing done	Little progress	Reasonable progress	Significant progress	Fully attained	N.A		
1	2	3	4	5			
Item	Attribute	1	2	3	4	5	N.A
A1	Company Directors agree to sell the business						
A2	Shareholders agree to sell the business						
A3	Personal objectives of key shareholders are able to be met by a sale						
A4	Senior management support the sale of the business						
A5	Key employees support the sale of the business						
A6	Post sale changes in management are anticipated and accepted						
A7	Corporate and personal tax structures have been optimized						
A8	Key executives have a personal plan for post sale external roles						

Ultimate Exits Workbook Excerpt 2 (from p 56):

Premium on Sale: *Factors which increase final sale price*

In your opinion, in determining the contribution of your assets or capabilities to a possible sale price of the business, where are the major sources of strategic value to a potential buyer? For each of the factors set out below, indicate the extent to which you think they contribute to a premium on sale of your business. Mark up each potential buyer individually (e.g. a, b, c, etc.)

Item	Factor	Not Significant	Significant	Very Significant
1	Revenue potential of seller's products in buyer's customers or distribution channel			
2	Revenue potential of buyer's products into seller's customers or distribution channel			
3	Intellectual property (patents, brands, copyrights, etc) that could leverage significant new revenue for buyer			
4	Intellectual capital (knowledge, networks, experience, skills, etc) that could be leveraged by buyer			
5	Contractual rights (mining, forest, accreditations etc) that could be leveraged			
6	Significantly reduced time to market for new products or processes (build vs buy)			
7	Counter a threat to buyer from competitor			
8	Could resolve a significant internal weakness of buyer (access to new technology, ensure compliance, etc)			
9	Removal of competitor			
10	Removal of possible risk where buyer is dependent on seller, or at risk, where seller is a supplier, customer, distributor or partner			
11	Deny access of a competitor to new products or processes			
12	Other:			

Ultimate Exits Workbook Excerpt 3 (from p 57):

Discount on Sale: *Factors which reduce final sale price*

In your opinion, if the business was approached by an acquirer now, identify those attributes or factors below which could reduce your value to a buyer and thus reduce the possible sale price (Mark each item with an X). If it has no effect, leave the item blank.

Item	Factor	Not Significant	Significant	Very Significant
1	Outstanding litigation			
2	Unresolved employee, supplier or customer complaints which could potentially result in litigation			
3	Undocumented or unclear outstanding contractual obligations to customers			
4	Intellectual property where ownership or rights are unclear or in dispute			
5	Worn out equipment, old stock, buildings needing refurbishment etc			
6	Out of date products, or processes, significant time and or cost to make competitive			
7	Pressure to sell			
8	Uncertainty of the commitment of key staff			
9	Poor internal infrastructure for budgeting, financial reporting and performance management			
10	Rights under agreements not easily able to be transferred to buyer			
11	Unresolved employee, supplier or customer complaints which could potentially result in litigation			
12	Significant time and/or cost to integrate the business			
13	Unusual or non-standard remuneration, commission plans, health plans etc			
14	Other:			

Ultimate Exits Workbook Excerpt 4 (from p 58):

Strategic Exit Strategy Index

	Nothing done	Little progress	Reasonable progress	Significant progress	Fully attained	N.A					
	1	2	3	4	5						
Item	Attribute					1	2	3	4	5	N.A
S1	An advisor has been appointed to assist in preparing the business for sale										
S2	A project plan has been created to manage the sale process										
S3	A senior management succession plan has been established										
S4	Owner/managers are actively promoting the business through industry events, local business groups and the trade press										
S5	Industry knowledgeable and respected Lawyers have been appointed										
S6	Industry knowledgeable and respected Accountants have been appointed										
S7	A Business Broker, Investment Bank or Professional Advisor has been appointed to manage the sale										
S8	Potential buyers are identified and relationships established										
S9	Strategic value to potential buyers is clearly identified										
S10	Products/services have been designed/adapted to be attractive to acquirers										
S11	The strategic value of the business is able to be demonstrated with convincing evidence										
S12	Industry acquisitions activity is monitored										
S13	Acquisition requirements and processes of potential acquirers are understood										
S14	Industry norms for valuation are acceptable to all interested parties										
S15	Potential acquirers have been approached about an acquisition										
S16	Formal trading relationships exist with potential buyers										
S17	Potential acquirers have Advisor/Director position and/or equity share										
S18	The business is formerly offered for sale and bids received.										

Ultimate Exits Workbook Excerpt 5 (from p 59):

Operations Management Index

Nothing done	Little progress	Reasonable progress	Significant progress	Fully attained	N.A		
1	2	3	4	5			
Item	Attribute	1	2	3	4	5	N.A
C1	Monthly financial and key performance indicator reporting exists						
C2	A formal business plan has been prepared and is updated periodically						
C3	A formal budget is prepared and actual performance is monitored against budget						
C4	Full compliance with regulatory issues (eg. environmental, health and safety)						
C5	Customer relationships are managed to minimize litigation						
C6	Supplier relationships are managed to minimize litigation						
C7	Employee relationships are managed to minimize litigation						
C8	Credit worthiness with suppliers is excellent						
C9	Banking relationships are excellent						
C10	Customer interaction, contracts and agreements are industry standard						
C11	Supplier contracts and agreements are industry standard						
C12	Contracts can be assigned to an acquirer						
C13	Intellectual property is able to be traded and is appropriately protected						
C14	Post acquisition changes in employment are planned for						
C15	Employment conditions, salaries and benefits are industry standard						
C16	Option schemes and benefits are compliant with stock exchange regulations						
C17	Due diligence files are complete and up-to-date						