

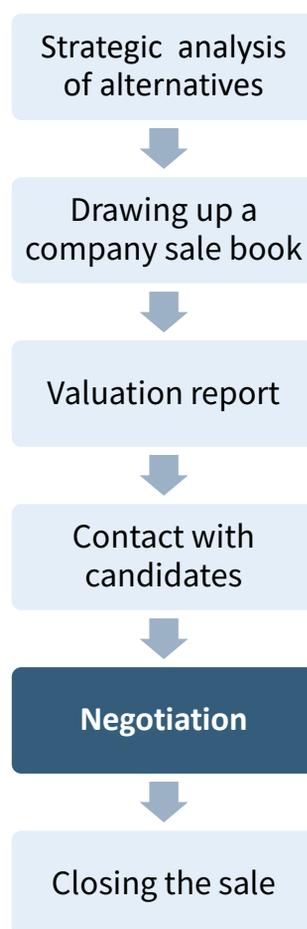
Negotiating a sale

ONE to ONE
CORPORATE FINANCE

INTRODUCTION

As the owner of a company, you may have considered selling your company, but you may be afraid of embarking on an unfamiliar process on your own. A company sale and purchase operation is undoubtedly a complex process that requires a team of advisors specialised in the company's sector of activity.

There are 6 main keys to the sale and purchase of a company:



In this manual, we will focus on the **negotiation** phase.

This phase takes place once the offers have been presented by the interested potential buyers. The offers must be analysed at the same time as the negotiation conditions are created. Until this process has reached its end, one cannot relax.

OBJECTIVES

The aim of this manual is to share, in the simplest and most practical way possible, the concepts that revolve around the negotiation of the sale of a company. This includes the most important elements, some key ideas that need to be taken into account by the seller and, finally, the importance of the process, which helps to maximise the final price.

All the information comes from **ONEtoONE Corporate Finance Group** whom, as advisors in hundreds of sale and purchase transactions for more that sixteen years, have enough experience to help you in one of the most important processes of your life.

Negotiation is an art, and to negotiate well, the first thing you need to know is where you want to get to and why. As President Lyndon B. Johnson said: "Conviction convinces". The better you argue for what you want, the easier it will be to get it.



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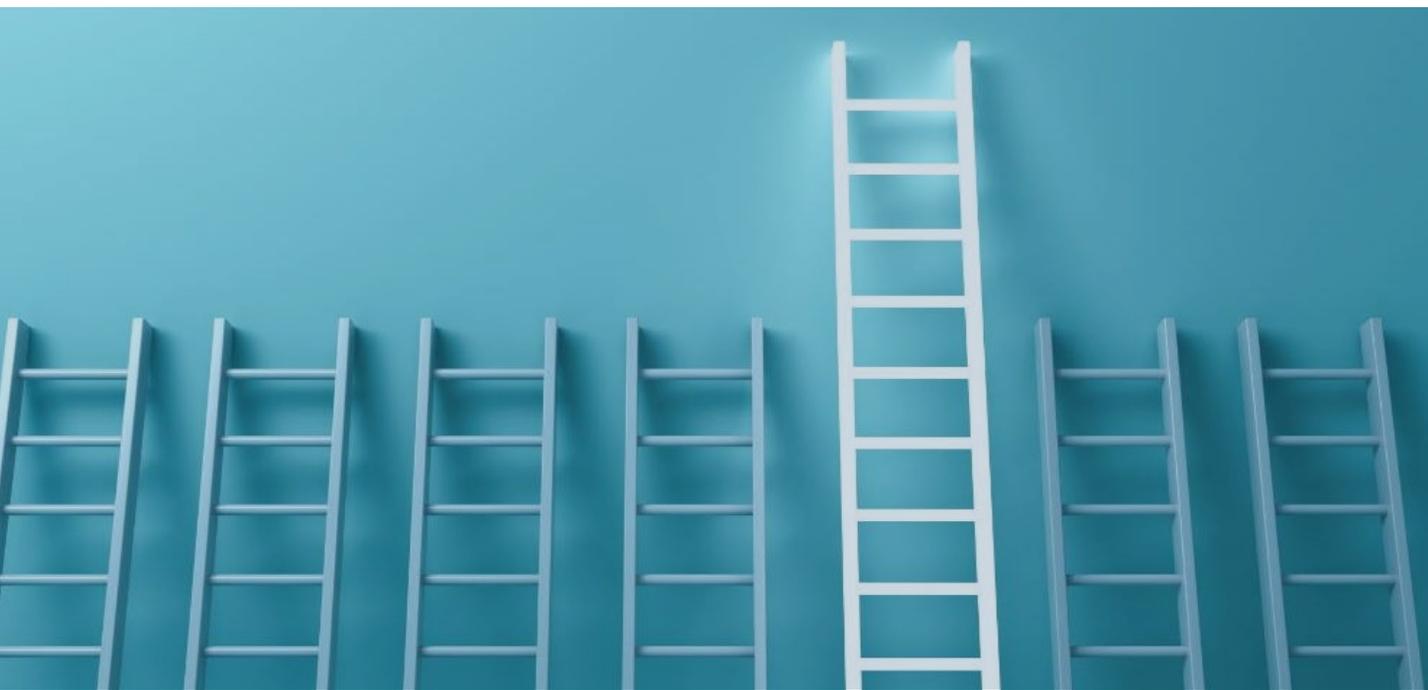
1. NEGOTIATING A SALE

Good negotiation is key to realising the value created by the entrepreneur over many years for his company.

Our M&A advisors are specialists in negotiation and we know that it is at this stage that the most value is created. In many cases, our clients hire us only to take care of this phase because they have received an offer and see the potential for a deal.

However, negotiating the sale of a company is not just a discussion about the price to be stipulated. Negotiation must be a systematic process, with internal consistency, in which the parties fit together in a logical way. It is therefore key to manage the pieces of the agreement with a view to the whole. The acts are intertwined, which is why it is essential to anticipate the collateral effects of the statements made during the process. A difficult negotiation at one point will have consequences at other points in the operation.

In the subsequent pages, we will look at some of these elements that will be dealt with during the negotiation.



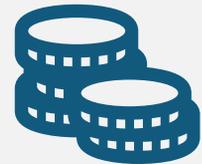


2. THE MOST IMPORTANT ELEMENTS OF NEGOTIATION

1. A PRICE THEY´RE WILLING TO PAY

Clearly, price is a very important aspect, but the likelihood of actually finally closing the deal should also weigh heavily when choosing which buyer to grant exclusivity to carry out due diligence.

Therefore, before accepting an offer, you should study the bidder's actual financial capacity and purchase history. Once you have granted exclusivity to one buyer and indicated to other buyers that you would accept another offer, it is more difficult to go back to them and try to get them interested in your company again.



2. WHAT IS IT THAT THEY WANT TO BUY?

You need to define very clearly whether it is a sale of a business or a sale of assets and liabilities.

A sale of assets and liabilities is purer and is usually in the buyer's interest as it does not assume the company's past liabilities, but it has tax implications that negatively affect the seller: as taxation is higher, its impact should be negotiated into the price.



3. ARE THEY LOOKING TO BUY ALL OR PART OF THE COMPANY?

There are times when it is worthwhile not selling everything and keeping part of the company. This can be done through an Owners Buy Out (OBO). An OBO is where the owner sells his company to a private equity firm, but also participates in the buy-out and eventually keeps a minority stake, which he sells when he also disposes of the private equity.

Investors usually prefer that the entrepreneur or someone from the management team stays with the company after the sale, as this will give them a financial incentive to help in the transition and in achieving the sales and profit targets that were set prior to the transaction.



4. FORM OF PAYMENT

When offers are received, different proposals are also received as to how the acquisition is to be paid for. One buyer may propose to pay part in shares of your company; another will propose to pay part at closing and part over a number of years depending on performance; another will suggest deferred payments, but not conditional on performance; and on other occasions you may be offered a merger, with an exchange of shares.



5. PAYMENT IN CASH OR IN INSTALMENTS

Sometimes, the buyer is not able to obtain financing or does not have sufficient liquidity and asks the seller to finance the transaction. In this way, part of the price is paid in deferred payments.

Deferred payments are common in service companies, as the buyer is afraid that, when the entrepreneurs leave, their loyal customer base will leave. By means of deferred payments, the buyer ensures a transition that allows him to gradually take over the customer base and build customer loyalty while the previous owners continue to be linked to the company by the expectation of being paid in deferred payments.



6. FIXED OR VARIABLE PRICE

When there are discrepancies about value, for example, if the seller believes that his company will grow strongly in the future and the buyer is not so sure, a useful way to resolve the conflict is to make part of the payment conditional on performance. This is known as earn out. In other words, the buyer pays at the time of purchase the price of the scenario that is credible to him. Later, after three years or annually, it pays the difference if the scenario envisaged by the seller is not fulfilled.

If an earn out is agreed, a simple model should be required to avoid conflicts and the price should be measured on the least manipulable aspects. The seller should be aware that if he does not remain with the company as a manager, the buyer can manipulate the data, or simply integrate it into another company, making measurement almost impossible.



7. SERVICE PROVISION AGREEMENTS

Sometimes the purchaser has clear restrictions on the price it is allowed to pay (e.g. a restriction not to pay a higher multiple than what the purchaser is quoted on the stock exchange to avoid listing penalties). However, this price could be qualified through service agreements.

The price to be paid for the rental of facilities remaining in the seller's estate, the salary to be received as a director, or the services to be contracted to another company owned by the seller, can all be instruments to facilitate a mutually satisfactory agreement.

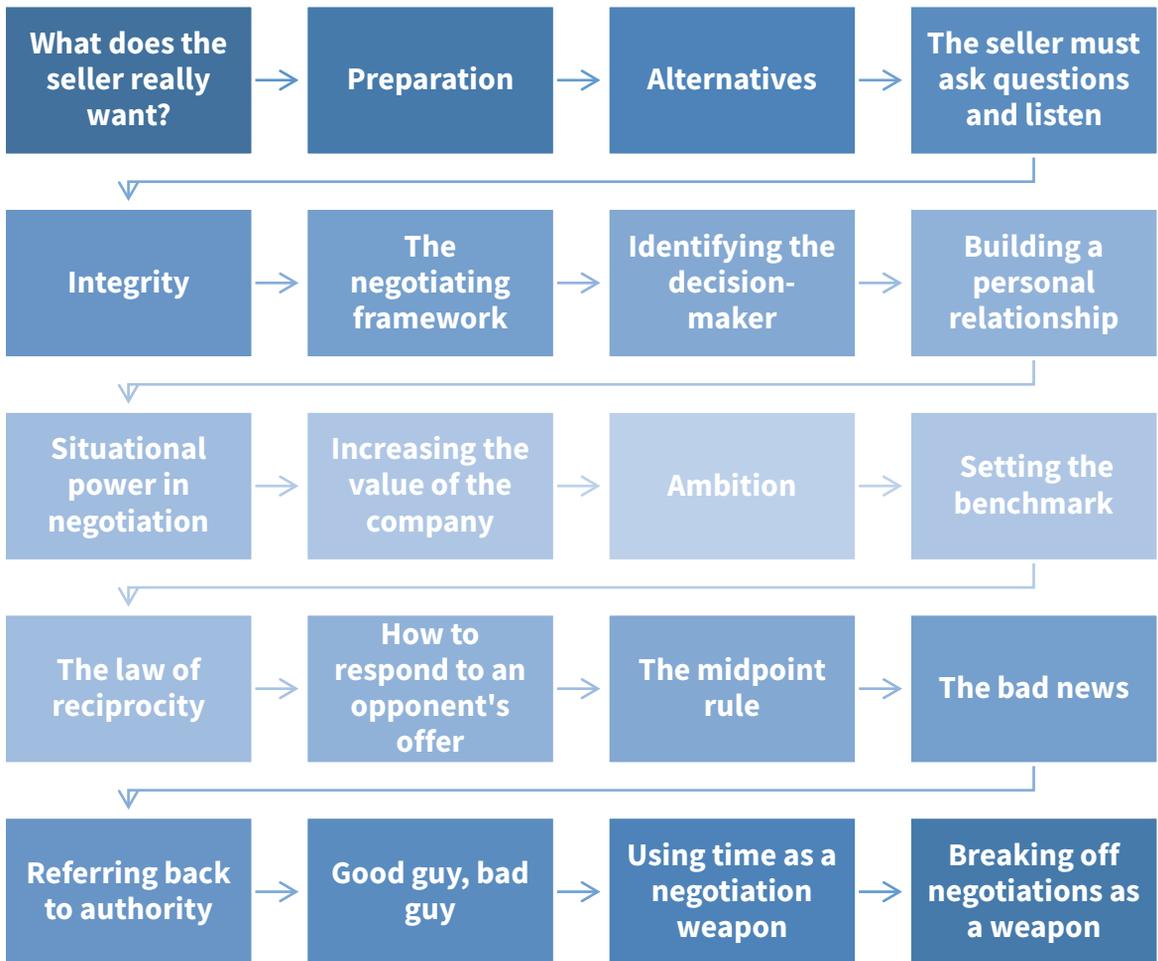
As you can see, price is not the only element to be taken into account. In fact, as defined by all of the above, the transaction can vary substantially. Therefore, in the agreement of intentions you must ensure that all these aspects are included. It is at that moment when the buyer has the greatest negotiating strength and, therefore, when all the relevant aspects must be clarified.





3. THE KEY TO NEGOTIATION

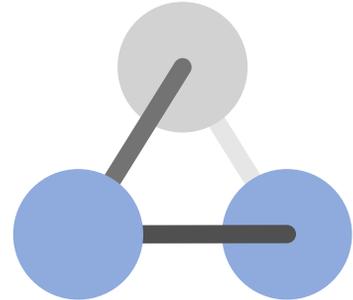
The most important aspects to be considered by the seller before embarking on the negotiation of a transaction are the following:



1. WHAT DOES THE SELLER REALLY WANT?

In order to negotiate well, the first thing you need to know is where you want to get to and why. As advisors, our objectives give us direction, but our expectations give us the strength to negotiate.

A good price is the means to an end, but it is not the be-all and end-all.



2. PREPARATION

The seller must analyse why the other party wants to buy, what its restrictions are, how many other acquisitions have been made, what the possible synergies are, etc.

It is important for the seller to mark the point at which he will withdraw, i.e. the point at which the transaction does not pay off. In this way, the Zone of Potential Agreement (ZOPA) is established.

A good valuation of the company will help you understand the critical aspects of the value and how the occurrence of contingencies may influence the value. It will also help you understand the synergies that exist with the buyer's company and therefore what value it is creating for you.

As the seller typically seeks to maximise the sale price, synergies often become the key factor in the economic impact of the transaction. The more you understand synergies such as, for example, the buyer's competitive position, the economies of scale that are produced or the real savings that are generated, the more negotiating tools you will have.



Negotiation requires quick thinking and the ability to understand what is important. This is why it is crucial for success in negotiation to be very clear about what is of value.

Preparation is 99% of success. In negotiation, failing to prepare is the same to preparing to fail.

3. ALTERNATIVES

An agreement will be reached with the best alternative you have. That is why it is essential to have good alternatives in order to reach a good deal.

Although this seems obvious, in many cases the entrepreneur negotiates with only one buyer. How do you know if that buyer is the right one? Is it the one for whom your company creates the most value, or the one who can pay the most for it?

If the seller lacks alternatives, he lacks bargaining power and the buyer will take advantage of this to gain constant concessions. Professional negotiators clearly notice whether or not the seller has alternatives.

4. THE SELLER MUST LISTEN AND ASK QUESTIONS

A good negotiator asks a lot of questions, talks little and listens well. Of course, he shares information, but above all, he obtains relevant information.

In negotiation, the most important thing is to listen. Understanding the other party's interests and constraints.

Negotiation is an information game, which is why the best negotiators focus more on receiving information than giving it. They ask twice as many questions as the other party, ask for clarification of the answers and summarise what they have heard to verify that they have understood correctly.

In a negotiation, information, especially information about what the other party really wants, is power. Once you know their position, try to discover the interests behind their position.



5. INTEGRITY

A good negotiator builds trust, never lies. He does not create expectations he cannot fulfil and keeps his promises.

He earns the respect of the other party during the process, because he is reliable. Lies sooner or later trigger a sense of risk between the parties.

6. THE NEGOTIATION FRAMEWORK

In order to have a good negotiation framework, optimal conditions must have been created before meeting the other party at the negotiation table. This is achieved by having the right people at the table, with the right expectations, at the most favourable time and the seller having the best chances in case he has to leave the table because there is no agreement.

The preparation for the sale of the company, the search for sufficient alternatives, the preparation and the approach to the transaction are elements that undoubtedly help to create a favourable negotiation framework for the seller.

Experienced negotiators know that most transactions end up in a middle ground between the two proposals, so we try to create a framework so that the other party's offer is reasonable and our offer is aggressive, so that the middle ground falls in a favourable situation for us.



The key to success is not how you negotiate in the boardroom, but whether you have created the framework for a successful negotiation.

7. IDENTIFYING THE DECISION-MAKER

In a purchasing negotiation, several people are usually involved. In addition to the interests of the purchasing company, there are other interests, which are those of the people negotiating.

You have to find out who is making the decision and what their personal interests are, what their needs are, what they are looking for themselves.

8. BUILDING A PERSONAL RELATIONSHIP

Negotiating the sale of a business is a time-consuming process, with both warmer and more confrontational phases.

Showing sincere concern for the other party's interests will help to ensure that, in reciprocity, the other party also has the seller's interests at heart and a more win-win solution is achieved.

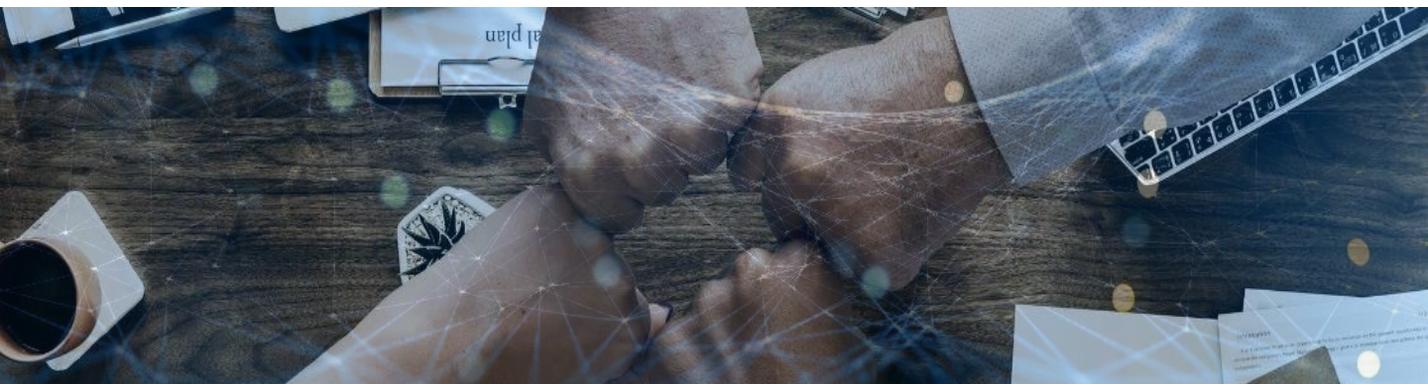
Be tough on demands and gentle with people.

9. SITUATIONAL POWER IN NEGOTIATION

Power is a very relative concept. In negotiation, this power depends on your alternatives and also on the alternatives of the other party.

Don't forget that 50% of a negotiation is determined by emotions. Perceptions in negotiation are crucial. It is essential to understand the perceptions of the other party, to get inside their head.

There are many ways to get to know the other party's interests. If the buyer has made other acquisitions, you need to analyse what they were like, under what conditions they bought, how much they paid, and what is the reason for their interest in the new company.



10. INCREASING THE VALUE OF THE COMPANY

It is important to find out what the other party values the most. Solving the other party's problems may be the best way to solve your own.

The goal is to reach an agreement without leaving money on the table. Rather, maximising value for the parties.

11. AMBITION

People who expect more, get more. Expectations should be high, but realistic.

A good negotiator starts with ambitious goals. Experience shows that when the starting goal is ambitious, you get a better price in the negotiation: high goals lead to high demands and better results.

During the negotiation it is very important to be focused on the opportunity, on what you want to achieve and not on the minimum necessary to reach an agreement.

12. SETTING THE BENCHMARK HIGH

A very useful strategy is to set the benchmark high, and negotiate with an aggressive demand. When we hear high or low numbers, we psychologically tend to unconsciously adjust our expectations in the direction of that number.

Setting a high benchmark has a strong psychological effect and directs the trade to the side of the person who sets it. In this way, it inevitably conditions the other party, who has to rethink its position.

For the claim to be credible, it must be supported by rational arguments that are debatable but have a logic behind them. It must be supported by standards, references or precedents that give it credibility.

13. THE LAW OF RECIPROCITY

If the seller sets a benchmark and then makes a concession, by the rule of reciprocity it generates an impulse in the other party to move as well.

The law of reciprocity works and skilful negotiators use it masterfully, creating situations that make the other party feel obliged to make a concession.

14. HOW TO RESPOND TO AN OPPONENT'S OFFER

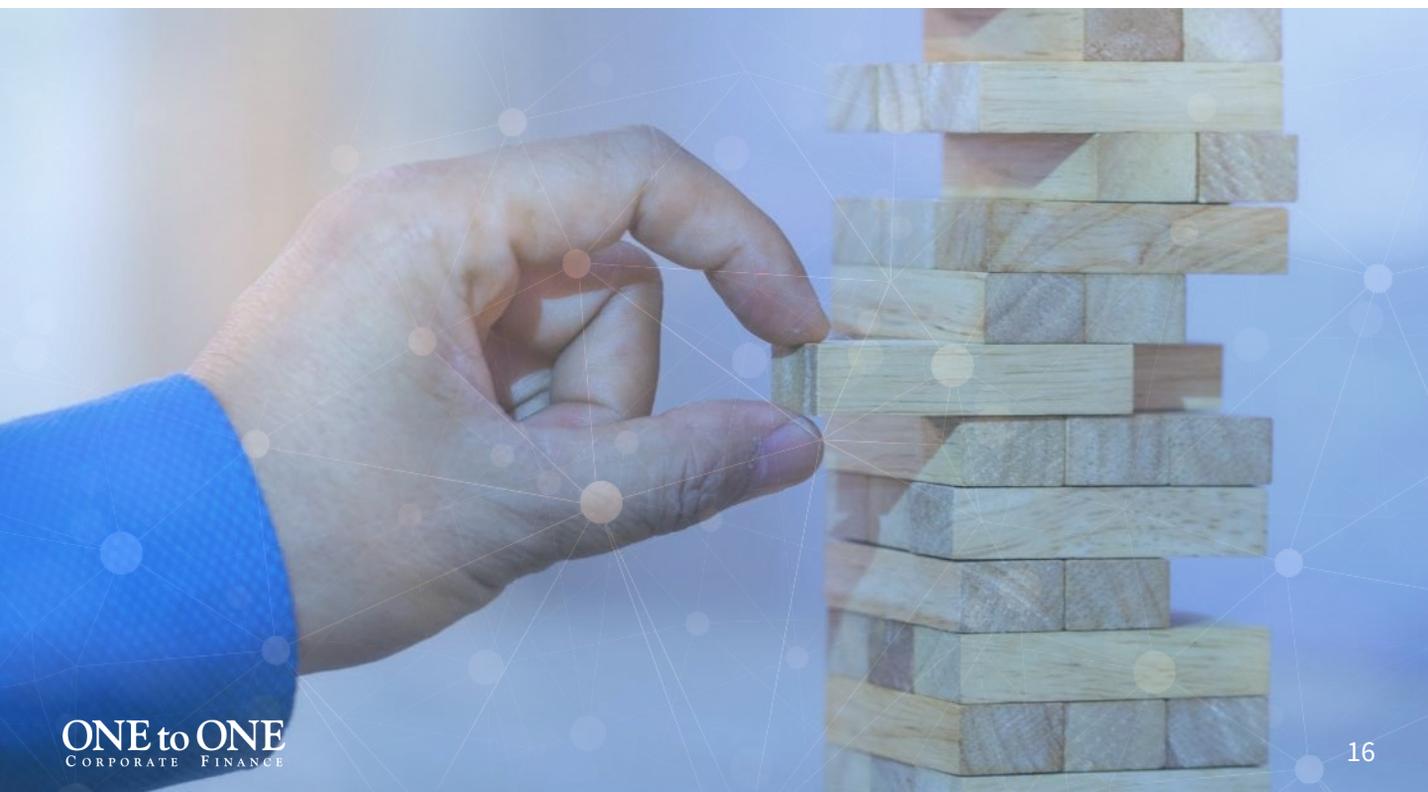
Always respond with alarm, whatever the offer. It is very important to give the other party the feeling that you have worked hard to achieve your objectives and that you have finally won. If the other party does not feel that you have won, you have not negotiated well.

15. THE MIDPOINT RULE

The tendency is almost always to strike a middle ground between the first offer and the counter-offer.

16. THE BAD NEWS

It is advisable to give the bad news early and clearly. A realistic view of what is possible avoids a lot of confusion in the later stages. This also avoids raising expectations that later lead to disappointment.



17. REFERRING BACK TO THE AUTHORITY

The seller should never negotiate as if he is the final decision-maker, even if he is. This puts him in a clearly weak position.

He must always have recourse to authority, whether it is the Chairman, the Board or the Committee. It is advantageous to be able to say: "I cannot give you an answer because I have to consult the Council and seek its authorisation for what you are asking for".

Recourse to authority allows negotiations to be paused or reopened on issues where there was originally a concession. It is extremely effective and avoids early or excessive concessions.

18. GOOD GUY, BAD GUY

It is very common to use this technique: the "good guy" looks like your friend, shows the nicer side and explains that the "bad guy" is inflexible, but that he will help you to make him flexible.

The seller knows that this technique is being used when he notices that he appreciates one of the negotiators and would like the other to disappear.

The best way to dismantle this technique is to highlight it, pointing out the knowledge of the application of this game and asking for explanations as to who has the authority to decide.

It is advisable to use this resource. It is very effective in obtaining concessions while maintaining a good negotiating climate.

19. USING TIME AS A NEGOTIATION WEAPON

It is important to know the timing of the other party and use it. If you need to close the deal by a certain date, leave the most difficult part for negotiation when there is little time left before that date. That is when you will get the most concessions.

As we invest lots of time, effort and energy in the operation, we are very committed.



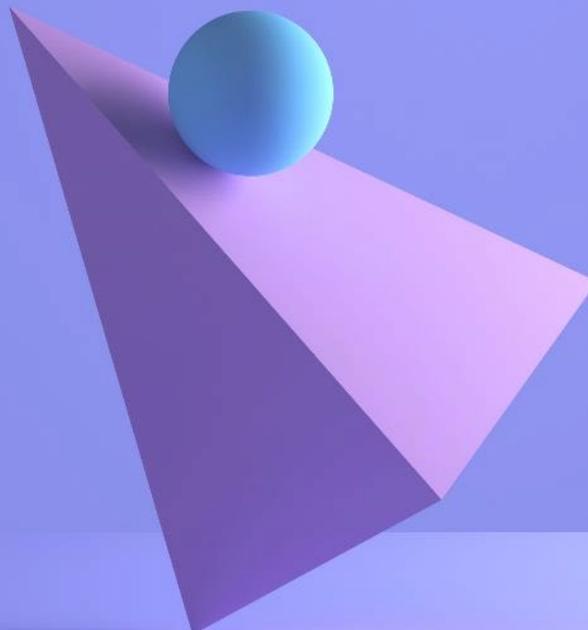
Negotiation can be described as a dance, a dance with assessments, emotions, alternatives and expectations of both parties. For the dance to be a success, it must not only focus on tactics at the negotiating table, but be well prepared.

20. BREAKING OFF NEGOTIATIONS AS A WEAPON

A good negotiator can break off negotiations twice and then get them back if they are able to display sufficient empathy. There are opponents who need this staging to know that they have reached their limits.

Breaking off negotiations can also be a way of expressing points of critical importance to us.

If you, as a salesperson, have something really important at stake, don't dance yourself, hire the best dancers. In other words, hire those advisors who have the most negotiation experience to represent you at this critical moment in the life of your company.





4. HOW THE PROCESS HELPS MAXIMISE PRICE

It is very important to differentiate between the terms **price** and **value**.



The **price** will depend significantly on supply and demand at a given time. It is determined by the market with its offers and can be improved by the seller if he is able to negotiate upwards from those offers. The price is usually the result of the quality of the selling process.



The **value**, on the other hand, is the value that each individual assigns according to their profile and interests.

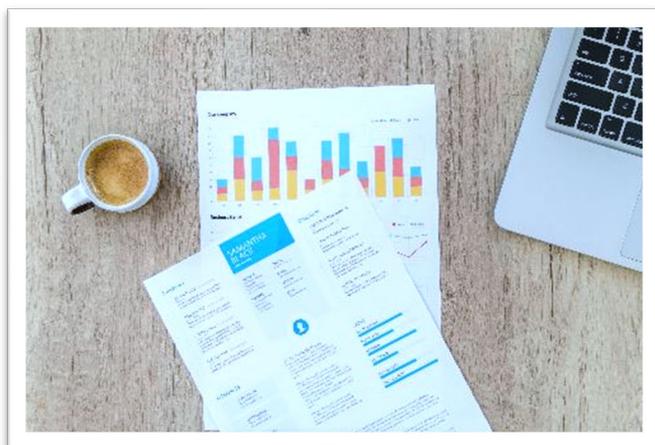
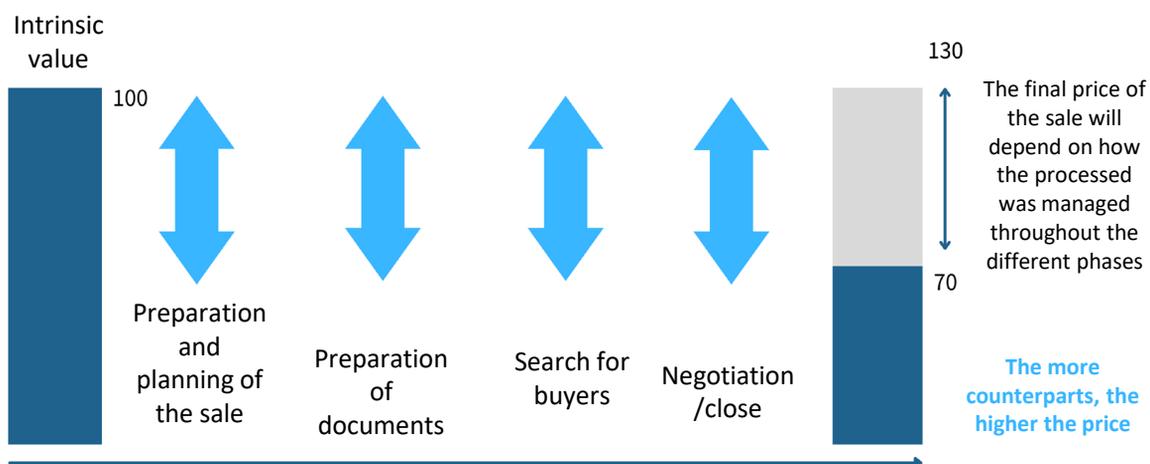
Valuation serves to understand the intrinsic value range of the company and to better negotiate.

The price is usually the result of the quality of the sales process. Good preparation, clarity and presentation of documentation, access to a good selection of candidates, appropriate management of confidentiality in the process and proper negotiation of offers will maximise the price and other conditions of the transaction.

Getting more bids means maximising the probability of finding the best buyer, as it gives us more bargaining power. Also, by scanning the market for potential buyers and receiving different indicative offers, we can find out what price the market is willing to pay.

The following graph shows how, from a given intrinsic value, depending on how each of the phases of the sales process is managed, a better or worse final price will be obtained.

The quality with which the seller approaches each of the phases will have a decisive influence on the final price. With a company's intrinsic value of 100, a poorly managed process can result in the company selling for 70, while a good process will raise the value to 130.



An example might be an entrepreneur who wants to sell a company with an intrinsic value of EUR 20 million. In the event that an experienced takeover buyer comes along and he decides to negotiate alone, the deal is likely to close at €15 million or even less. Professional acquirers have mastered many techniques of attrition and confusion, which they skilfully use to obtain a lower price.

On the other hand, if the seller decides to professionalise the sales process, he will be able to sell for a price in excess of 25 million. He will have prepared the company; he will have given rigour and seriousness to the process, with good documentation in which he will highlight the most valuable aspects; he will look for and find the buyers who can pay the most because they are the most interested; he will put them in competition by making them raise their offers and his expert negotiation advisors will take care of maximising the price while protecting his interests in the contract.

Selling a business puts a value on many years of work and effort and, in this act, value can very easily be created or destroyed.



A well-managed sale of a company has a tremendous impact on the price and the final conditions of the transaction.



5. CONCLUSIONS



Negotiating the sale of a company is not just a discussion about the price to be stipulated. It is a **systematic process**, which must be internally consistent, in which the parts fit together in a logical way. It is therefore key to keep a close eye on each part of the deal.



Negotiation is based on **indispensable elements**, which must be identified during the negotiation process. Some of these elements are: setting the objectives of the buying party, i.e. what they are looking for, what they are willing to pay, etc., the form of payment to be established and the service delivery arrangements..



Similarly, within the negotiation it is important to focus on the key aspects of the negotiation. This requires thorough preparation to address all the necessary points. Preparation is 99% of success. In negotiation, **failure to prepare is tantamount to preparing to fail**.



The importance of knowing how to differentiate between **value and price**. If the process is prepared with the help of expert advisors, the price of the company can be maximised.

Ultimately, negotiating the sale of a company is a technical job, which requires a lot of background research and strategy. We hope that this manual will help you to understand the foundations of the negotiation.

At **ONEtoONE Corporate Finance Group** we remain at your disposal for any queries that may be of support for all types of corporate transactions.



ABOUT ONEtoONE

ONEtoONE Corporate Finance has offices in Europe, the United States, Latin America and Asia, making us the largest global group specialising in advising on the valuation and sale and purchase of companies like yours.

At ONEtoONE we know that at least seventy percent of the result in the sale of a company will depend on the search for potential buyers and talking to key people during the negotiation, always within a confidential management of the entire process.

Having an expert company in M&A such as ONEtoONE is fundamental, since, as experts in the sale and purchase of companies, we take care of all the steps and advice that the selling party needs. We use all our human and technological resources, databases, experience and processes to achieve the best possible price and result.

If you still have doubts about how you can approach the negotiation of the sale of your company, at ONEtoONE we offer you a team of professionals who will be dedicated, with absolute transparency and confidentiality, to advise you during this process. Do not hesitate to contact our team.

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CORPORATE FINANCE

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