

# BUYING A BUSINESS VS START-UP

When attempting to buy a business or establish a startup, it all comes down to making "THE RIGHT CHOICE" and certainly financing your project should be a key element in your decision.

Lenders are less likely to view you as a risk if you have income-generating mechanisms in place that allow you to meet your monthly debt obligations. Buying an existing business is less risky than starting from scratch since your investing in a business that already has an existing track record with an annualized profit, and you don't have to reinvent the wheel.

Your business venture must have a solid reputation and customer base with employees who are familiar with most aspects of the business. If intangible assets are involved, it is wise to review all legal rights; patents, copyrights, and licenses as they may have added value and make your buying decision easier.

Private lenders and investors generally feel more comfortable dealing with a business that is fully operational with a strong balance sheet as they do not want to be part of a failure.

However, "BUYER BEWARE" you do not want your acquisition to become a sinkhole for your time, money, and resources as it can be difficult to find the right company to acquire, one that is a good fit with your existing expertise, culture, and strategic goals. Further, you do not want to be taken advantage of by an unscrupulous seller who misrepresents key financial data, or somehow glossed over essential facts and was vague about their overall business operation.

Also, a rocky ownership change can prompt key staff to leave or even imperil customer relationships that can be especially problematic in a business that is highly dependent on the owner or certain employees.

The best acquisition targets, as we mentioned, should have solid sales and profits, but due diligence must be exercised before any purchase. This is your opportunity to ask tough questions and demand access to the business inventory and equipment,

financials, contracts, intellectual property, or any outstanding legal issues. Knowing all these details well in advance will help you to determine the financial risks involved, and will place you in a much stronger position for price negotiation.

Be fully aware of existing and future legal obligations, outstanding judgments or tax liens, and make certain that the business you're about to purchase meets all the local health and environmental requirements.

Lenders will want to know these things as they are key elements in the underwriting process for project approval. They will scrutinize your loan request to determine if the business is licensed or will request copies of permits, licensing, zoning and environmental studies if the project is under construction.

Knowing and being prepared is essential, it can be the difference between success and failure!

# BUYING A BUSINESS

## THINGS TO CONSIDER

### ORGANIZATIONAL

<input type="checkbox"/> <b>The Company's Articles of Incorporation, and amendments, including bylaws.</b>	
<input type="checkbox"/> <b>The Company's organizational chart.</b>	<input type="checkbox"/> <b>A Certificate of Good Standing.</b>
<input type="checkbox"/> <b>The Company's list of shareholders and shares held by each stakeholder.</b>	
<input type="checkbox"/> <b>A list of all states or countries where the Company is authorized to do business.</b>	

### FINANCIAL

<input type="checkbox"/> <b>Financial statements for three years, together with Audited Reports.</b>		
<input type="checkbox"/> <b>Any projections, capital budgets and strategic plans.</b>	<input type="checkbox"/> <b>A schedule of inventory.</b>	
<input type="checkbox"/> <b>A schedule of all indebtedness and contingent liabilities.</b>	<input type="checkbox"/> <b>A schedule of Accounts Receivable &amp; Payables.</b>	
<input type="checkbox"/> <b>A description of depreciation and amortization methods and changes in accounting methods over the past five years.</b>		
<input type="checkbox"/> <b>Schedule of fixed and variable expenses.</b>	<input type="checkbox"/> <b>Cost of goods sold analysis.</b>	<input type="checkbox"/> <b>Access to General Ledger</b>

## REAL ESTATE & PHYSICAL ASSETS

<input type="checkbox"/> <b>A schedule of the Company's business locations.</b>		
<input type="checkbox"/> <b>Copies of all real estate leases, deeds, mortgages, title policies, surveys, zoning approvals, variances or use permits.</b>		
<input type="checkbox"/> <b>A schedule of fixed assets and locations.</b>	<input type="checkbox"/> <b>All U.C.C. filings.</b>	<input type="checkbox"/> <b>All leases of equipment.</b>
<input type="checkbox"/> <b>A schedule of sales and purchases of major capital equipment during last three years.</b>		

## INTELLECTUAL PROPERTY

<input type="checkbox"/> <b>A schedule of domestic and foreign patents and patent applications, trademarks, trade names, and copyrights.</b>	
<input type="checkbox"/> <b>Work for Hire Agreements.</b>	<input type="checkbox"/> <b>Patent Clearance Documents.</b>
<input type="checkbox"/> <b>A schedule and copies of all consulting agreements, agreements regarding inventions, and licenses or assignments of intellectual property to or from the Company.</b>	

## ENVIRONMENTAL-LICENSES-PERMITS

<input type="checkbox"/> <b>A list of environmental permits and licenses.</b>	<input type="checkbox"/> <b>A description of the Company's inventory disposal methods.</b>
<input type="checkbox"/> <b>Environmental audits for each property leased by the Company.</b>	
<input type="checkbox"/> <b>A listing of hazardous substances used in the Company's operations.</b>	
<input type="checkbox"/> <b>Copies of all correspondence, notices and files related to EPA, state, or local regulatory agencies.</b>	
<input type="checkbox"/> <b>A list identifying and describing any environmental litigation or investigations.</b>	
<input type="checkbox"/> <b>A list identifying and describing any contingent environmental liabilities or continuing indemnification obligations.</b>	
<input type="checkbox"/> <b>Copies of any governmental licenses, permits, or consents.</b>	<input type="checkbox"/> <b>Any correspondence or documents relating to any proceedings of any regulatory agency.</b>

## TAXES

<input type="checkbox"/> <b>Federal, state, local, and foreign income tax returns for last 3 years.</b>	<input type="checkbox"/> <b>Any audit and revenue agency reports.</b>	
<input type="checkbox"/> <b>Tax settlement documents for last 3 years.</b>	<input type="checkbox"/> <b>Excise tax filings for 3 years.</b>	<input type="checkbox"/> <b>Tax Liens.</b>

## CONTRACTS

<input type="checkbox"/> <b>A schedule of all subsidiary, partnership, or joint venture relationships and obligations under agreement.</b>	
<input type="checkbox"/> <b>Copies of all contracts between the Company and any officers or directors holding significant shares, including affiliates.</b>	
<input type="checkbox"/> <b>All loan agreements, and financing arrangements, lines of credit, or promissory notes involving Company.</b>	
<input type="checkbox"/> <b>Security agreements, mortgages, indentures, collateral pledges, guarantees, or obligations to which the Company may be a party.</b>	
<input type="checkbox"/> <b>Installment Sales Agreements.</b>	<input type="checkbox"/> <b>Stock options or purchase agreements involving corporate interests.</b>
<input type="checkbox"/> <b>Any letters of intent, contracts, and closing transcripts from any mergers, acquisitions, or divestitures within the last five years.</b>	
<input type="checkbox"/> <b>Company standard quotes, purchase orders, invoices, and warranty forms.</b>	<input type="checkbox"/> <b>Distribution agreements, sales, marketing, and supply agreements.</b>

## **CUSTOMER INFORMATION**

<input type="checkbox"/> <b>Listing of the Company's 10 largest sales-volume customers over past two years.</b>	
<input type="checkbox"/> <b>Supply or Service Agreements.</b>	<input type="checkbox"/> <b>Schedule of unfilled orders.</b>
<input type="checkbox"/> <b>Description of Company's purchase policy.</b>	<input type="checkbox"/> <b>Description of Company's credit policy.</b>
<input type="checkbox"/> <b>Company's advertising program, marketing plans, budgets, and marketing materials.</b>	<input type="checkbox"/> <b>A description of the major competitors.</b>
<input type="checkbox"/> <b>All surveys and market research reports relevant to the Company or its products and services.</b>	

## **INSURANCE**

<input type="checkbox"/> <b>A schedule and copies of the Company's general liability policy, personal and real property, product liability, errors and omissions, key-man directors, workers compensation, and other insurance coverage.</b>
<input type="checkbox"/> <b>A schedule of the Company's insurance claims and history for the past 3 years.</b>
<input type="checkbox"/> <b>Copies of insurance policies that may provide coverage to any pending or threatened litigation.</b>

## LIST OF QUESTIONS

<input type="checkbox"/> <b>Why is the business for sale?</b>	<input type="checkbox"/> <b>How long has the business been listed?</b>
<input type="checkbox"/> <b>What is the outlook for the future?</b>	<input type="checkbox"/> <b>How has the business changed over the last five years?</b>
<input type="checkbox"/> <b>Have they added new products or services?</b>	<input type="checkbox"/> <b>What is their marketing plan?</b>
<input type="checkbox"/> <b>How do they obtain new customers?</b>	<input type="checkbox"/> <b>Who are their competitors?</b>