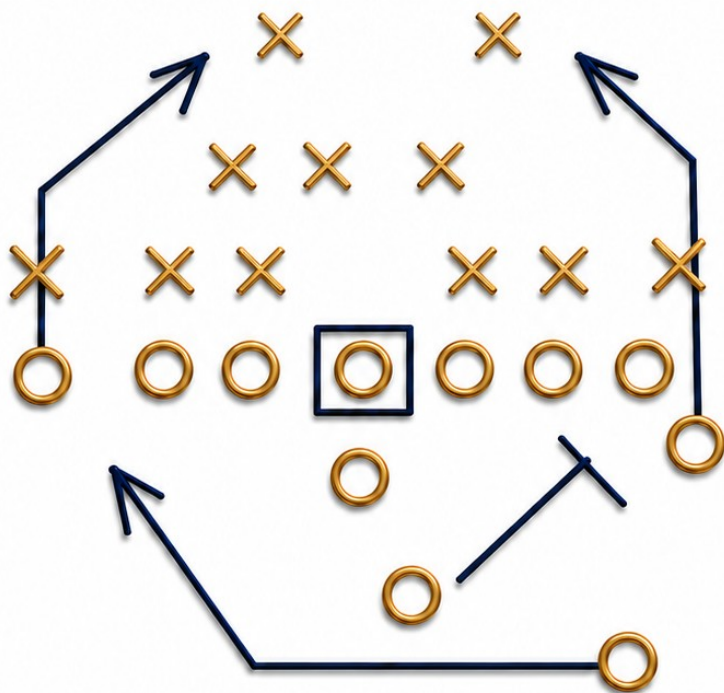


— PRACTICE YOUR —

BUY-SELL AGREEMENT

— ◆ —

(TO MAKE SURE IT WILL WORK *BEFORE* IT IS TRIGGERED)



— TODD RUSSELL —

— CFP®, CLU, ChFC —

PRACTICE YOUR BUY-SELL AGREEMENT

To Make Sure It Will Work Before It Is Triggered

TODD RUSSELL
CFP®, CLU, ChFC



SCAN THE QR CODE FOR A BRIEF INTRODUCTION

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Foreword to the 3rd Edition

This booklet was not written to sit on a shelf.

The first edition of *Practice Your Buy-Sell Agreement* confirmed what I have witnessed throughout my career working with business owners: most buy-sell agreements are created, signed, filed away, and never looked at again. Owners assume the agreement will work when the time comes. That assumption is dangerous — and in some cases, it has proven to be catastrophic.

A colleague of mine from Texas, Howard Partridge, has built an entire coaching program around a single observation. He calls it FTI — Failure to Implement. If you have ever attended one of his sessions, you have heard him say it so many times it becomes impossible to forget. His most recent book carries the same title, because the problem is that pervasive.

Failure to implement is precisely what this booklet is designed to confront.

You built your business through discipline, hard work, and the willingness to make difficult decisions. Your buy-sell agreement deserves the same discipline. Reading it is not enough.

Understanding it is not enough. You must practice it — stress test it, pressure test it, run a fire drill on it — before the day arrives when it is triggered and the terms are locked and unchangeable.

The cost of inaction is not theoretical. It shows up in courtrooms, in dissolved partnerships, in families left with far less than they were promised, and in businesses that did not survive a transition they never prepared for.

Read this booklet. Then open your agreement. The best outcome is that you confirm everything is in order and you gain peace of mind. The worst outcome is that you discover a problem while you still have time to fix it.

Either way, you win — but only if you act.

Todd Russell, CFP®, CLU, ChFC

Executive Summary

When was the last time you read your buy-sell agreement from start to finish? If you are like most business owners, the honest answer is never. You signed it along with your partners and you moved on to running your business. That is understandable. It is also a problem.

Your buy-sell agreement is not a formality. It is the legal document that determines what happens to the business you have spent years — possibly decades — building, the moment something goes wrong. And something will go wrong. The only question is whether your agreement will work the way you need it to when that moment arrives.

Consider what is actually at stake. Your business partner goes through a divorce. They suffer a disabling accident. They die unexpectedly. They decide to walk away. In any of these scenarios, your agreement is triggered, and the written terms — whatever they say — take over. Are you prepared to buy out their interest at the price your agreement specifies? Do you have the means to fund that obligation? And if you cannot, are you prepared to be in business with their spouse, their children, or their estate?

Now turn it around. What if you are the one facing disability, the divorce, or the unexpected exit? Does your agreement guarantee a buyer for your interest? Is the price fair? Can your partners afford to buy you out without crippling the business you helped build?

These are not hypothetical questions. They are the questions your agreement must answer — clearly, precisely, and in a way that works for everyone involved.

This booklet will walk you through the three pillars of every buy-sell agreement: the trigger events that activate it, the valuation method that sets the price, and the payment terms that determine whether the buyout is executable. In each area, you will find that most agreements have gaps, assumptions, and ambiguities that their owners never discovered — because they never practiced it.

That ends today.

Three Cords of a Buy-Sell Agreement

Every buy-sell agreement, regardless of how simple or sophisticated, is built on three foundational elements. Think of them as the three cords that hold the agreement together. Pull on any one of them and the entire structure is tested. Let one of them fail, and the consequences can be severe.

1. Trigger Events

Trigger events are the circumstances that activate your agreement and set everything in motion. Death. Disability. Divorce. Retirement. Bankruptcy. Involuntary withdrawal. The moment a trigger event occurs, the written terms of your agreement take over — and they will be enforced whether they work in your favor or not. The critical question is not whether your agreement lists trigger events. Most do. The critical question is whether those triggers are defined precisely enough that every owner, every attorney, and every court would interpret them the same way. As you will see, that is far less common than you might expect.

2. Valuation of the Company

What is your business worth today — according to the legally enforceable terms of your agreement? If you cannot answer that question with confidence, you are not alone. Valuation is where most buy-sell agreements break down in practice. The method your agreement uses to set the price — whether a fixed price, a formula, or a formal appraisal — may produce a number that surprises you, disadvantages you, or bears no resemblance to what you believe your business is worth. You need to know

which, and you need to know it now, not the day the agreement is triggered.

3. Terms of Payment

Once the trigger fires and the value is set, someone must write a check. The terms of payment determine how much, how fast, and under what conditions that obligation must be fulfilled. A legally valid payment obligation that cannot be met is not a solution — it is a new crisis. The question is not only whether your agreement specifies payment terms. The question is whether those terms are viable for the buyer and fair to the seller under every trigger scenario your agreement covers.

These three cords work together. A well-practiced agreement stress tests all three — before the day arrives when there is no time left to make corrections.

Let's take a closer look at each one.

Trigger Events

Think of a trigger event as the moment the gun fires. Once the bullet leaves the barrel, there is no calling it back. Once your buy-sell agreement is triggered, the written terms dictate every move — who buys, who sells, at what price, and under what conditions. There is no pause button. There is no renegotiation. There is only what the agreement says.

That is why getting trigger events right matters enormously.

The most common trigger events found in buy-sell agreements are listed below. As you read through them, ask yourself a simple but important question: does my agreement define each of these clearly enough that every owner would interpret them the same way?

1. Death of an Owner

The death of a business owner is the most straightforward trigger event — but even here, ambiguity can creep in. Does the agreement specify a timeline for the buyout following death? Is there a funding mechanism in place, such as life insurance, to make the purchase immediately executable?

2. Disability

Disability triggers are among the most frequently contested provisions in buy-sell agreements. How does your agreement define disability? Is it the inability to perform the owner's specific duties? A physician's determination? A definition tied to an insurance policy? If two attorneys read your disability provision, would they reach the same conclusion?

3. Retirement

When an owner decides to retire, the agreement may outline the procedures for transferring their ownership stake. Pay close attention here — many agreements require advance notice of retirement for the departing owner to receive full value. Miss that notice requirement and the financial consequences can be significant.

4. Involuntary Withdrawal

An owner may be forced out of the business due to misconduct, criminal activity, or actions that conflict with the interests of the company. Does your agreement define what constitutes grounds for involuntary withdrawal? Vague language here is an invitation to litigation.

5. Divorce

Divorce is one of the most disruptive events a closely held business can face. Without a clear provision addressing divorce, a departing owner's spouse may acquire an ownership interest in your business — becoming your new business partner whether you want them to or not. Does your agreement prevent that outcome?

6. Bankruptcy

If an owner files for personal bankruptcy, their business interest becomes an asset of the bankruptcy estate. Does your agreement specify how that interest is handled, and does it protect the remaining owners from having a bankruptcy trustee or creditor inserted into the ownership structure?

7. Dispute Resolution

Some agreements include provisions that trigger a buyout in the event of an irreconcilable dispute between owners. This is sometimes called a “shotgun” clause within the agreement itself. If your agreement includes this provision, do all owners fully

understand how it works and what it would cost them to invoke it?

When Language Fails, the Courts Decide

Precisely defining trigger events is not a legal formality — it is a financial necessity. Ambiguous language does not stay ambiguous forever. Eventually, someone is forced to interpret it, and when owners cannot agree on the interpretation, a judge will do it for them.

Consider a 2010 case out of Tennessee — *Ruth v. Home Health Care of Middle Tennessee, LLC*. The dispute centered on whether the operating agreement identified death as a liquidating event that would trigger the dissolution of the company. The court’s description of the agreement’s language is worth noting carefully. The provisions were described as “convoluted, inextricably intertwined, and subject to fairly being understood in more than one way.”

That is a court saying, in plain terms, that the agreement failed at its most basic job — being clear.

Did the owners of that business ever sit down and read through their agreement together before the trigger was pulled? We will never know. But it is reasonable to ask whether a simple review might have caught the problem while there was still time to fix it. Instead, the ambiguity was discovered in a courtroom, at the worst possible moment, with everything on the line.

Attempting to renegotiate the terms of a buy-sell agreement after it has been triggered is, as I have described it to clients, like trying to nail Jell-O to a tree. The moment a trigger event occurs, the interests of the buyer and the seller diverge sharply. The buyer wants to pay less. The seller wants to receive more. The goodwill and alignment that existed when the agreement

was signed is gone. What remains is the written document — and whatever a court decides it means.

Reflecting on Your Trigger Events

After reading this section, pull out your agreement and work through the following questions honestly. These are not rhetorical — they are the same questions I ask every business owner I sit down with.

- **Are there trigger events missing from your agreement?** Most standard agreements cover the common triggers listed above. But your business may have circumstances unique to your ownership structure, your industry, or your partners that warrant additional provisions. What scenarios keep you up at night that your agreement does not address?
- **Should all owners be subject to the same triggers?** A passive investor who holds an ownership stake but plays no active role in the business presents different considerations than a managing owner whose daily involvement is critical to operations. Does your agreement treat all owners identically, and is that appropriate for your situation?
- **Would every owner interpret the trigger definitions the same way?** This is the most important question of the three. Sit down with your business partners and, without coaching each other, describe how you believe the disability provision works, or what constitutes grounds for involuntary withdrawal. If the answers differ, you have found a problem worth solving before it finds you.

***Your agreement is only as strong as its clarity.
Trigger events that are vague, overlooked, or
misunderstood are not a safety net — they are a
liability.***

Valuation

Here is a question I want you to answer right now, before you read another sentence.

What is your business worth today — according to the legally enforceable terms of your buy-sell agreement?

Not what you think it is worth. Not what you hope it is worth. What does your agreement say it is worth, and how does it arrive at that number?

If you cannot answer that question with confidence, you are in good company. In my experience, the vast majority of business owners cannot. And that gap — between what owners believe their business is worth and what the agreement will produce — is where some of the most painful and costly surprises in business transitions are discovered.

The Exercise That Reveals Everything

When I sit down with business owners for the first time, I have a simple exercise I like to run before we discuss anything else. I hand each owner a piece of paper and ask them not to share their answer with anyone in the room. The question is straightforward: What do you think the business is worth today?

Here is a sample of what I have received back over the years:

- **Case 1** — Blank stares. One owner looked up and said, “I genuinely have no idea.”
- **Case 2** — Owner 1 wrote \$1.3 million. Owner 2 wrote \$5.5 million.

- **Case 3** — Owner 1 wrote \$5 million. Owner 2 wrote \$3.5 million.
- **Case 4** — Owner 1 wrote \$15.7 million. Owner 2 wrote \$14.5 million.

Notice what every single one of these responses has in common. No two owners agreed. In some cases, the gap between partners was measured in millions of dollars. These are not strangers — these are people who built businesses together, who sit in the same meetings, who share the same financial statements. And they cannot agree on what the business is worth.

Now here is what I found when I reviewed the actual agreements in each of those cases.

Case 1 used a fixed price valuation method. The agreement, dated February 2008, stated that the selling price would be determined by a majority vote of the members. The initial value was never set in 2008. No value had ever been recorded. Had the agreement been triggered on the day I walked into that meeting; there would have been no enforceable price — just a process that had never been followed and partners who had no idea what their business was worth.

Case 2 outlined a formula consisting of book value plus something described as “excess market value.” The term excess market value was never defined anywhere in the agreement. Neither owner had ever read the agreement closely enough to know that. I read it to them in the meeting. They had a buy-sell agreement — they just did not know what it said.

Case 3 was a fifty-year-old business with two owners and a handshake agreement to “take care of the other’s family if something happened.” There was no formal agreement. There was no defined value. There was goodwill and good intentions — neither of which is legally enforceable.

Case 4 had an agreement executed in 2010 stating that the set price “shall be memorialized and made a part of the LLC records.” If you are guessing that no price was ever recorded, you are correct. Sixteen years had passed. The business had grown substantially. And the agreement’s valuation mechanism had never once been followed.

These are not edge cases. They are representative of what I encounter regularly. Valuation is the most common and most consequential failure point in buy-sell agreements — and in most cases, the owners had no idea there was a problem until someone forced them to look.

The Three Valuation Methods

Buy-sell agreements generally rely on one of three methods to establish the value of the business: a fixed price, a formula, or a formal appraisal. Each has strengths. Each has serious vulnerabilities. And each must be stress tested to determine whether it will produce a result that is fair, accurate, and executable when the agreement is triggered.

Fixed Price Valuation

The fixed price method, sometimes called the agreed price method, operates on a straightforward premise. The owners convene periodically — typically annually — agree on a value and memorialize that price in the agreement. Simple in concept. Frequently problematic in practice.

The most common failure of the fixed price method is that the price is never set in the first place, or set once and never updated. Without a current, agreed-upon value, the method is meaningless. But even when owners are diligent about the

annual update process, a deeper problem can surface — one that is structural rather than administrative.

Picture two partners. One is sixty-five years old and actively planning retirement. The other is thirty-five, energetic, and determined to reinvest every available dollar back into growing the business. They sit down annually to agree on a price. Their interests could not be more opposed. The retiring owner wants the highest possible valuation — it represents the culmination of decades of work and the foundation of their financial security. The younger owner wants the lowest defensible number — a lower price means a more affordable buyout and more capital available for the business going forward.

This is not a failure of character. It is a structural conflict baked into the fixed price method. When diverging interests make consensus impossible, the agreement typically falls back to a secondary method — a formula or an appraisal. Which raises an important question: have you ever tested what that secondary method would produce?

The consequences of failing to ask that question can be severe, as illustrated by a New Jersey case — *Namerow v. PediatriCare Associates, LLC*.

PediatriCare was formed in January 2000. The operating agreement was updated in March 2001 to set the company's value at \$2.4 million. The agreement called for the valuation to be updated annually, with a formula-based adjustment to apply if the price went two consecutive years without being updated.

In January 2016, the first partner notified his associates of his retirement, triggering the agreement. The valuation had not been updated as required. The formula adjustment was applied — and the two sides arrived at dramatically different conclusions. Dr. Namerow's representatives calculated the value

at between \$5.6 million and \$6.8 million. PediatriCare calculated it at between \$2.8 million and \$3.2 million. The case went to court. The court sided with PediatriCare. Dr. Namerow received \$3.2 million.

Two lessons from this case deserve to be written down and kept somewhere visible.

1. If your agreement calls for annual price updates, treat that obligation as non-negotiable. The failure to update is not a technicality — it can cost you millions.
1. If your agreement includes a backup formula for years when the price is not updated, run that formula today. Find out what it would produce under current conditions, under a down year, and under the best year your business has had. If the results surprise you, you have found a problem worth fixing while you still can.

Dr. Namerow found out how his agreement worked on the day it was triggered. That is the most expensive possible time to learn.

The Formula Method

The formula method replaces the annual negotiation of a fixed price with a mathematical process — a multiple of earnings, a combination of book value and revenue metrics, or a more sophisticated algorithm built around your specific industry and financial profile. At its best, the formula method removes subjectivity and eliminates the annual standoff between buyers and sellers. At its worst, it produces valuations that are wildly disconnected from reality.

The core vulnerability of any formula is that it is anchored to financial data — and financial data fluctuates. A formula that produces a fair and accurate valuation during a strong economic

cycle may produce a deeply distorted result during a downturn. We are not far removed from the COVID-19 pandemic, which compressed or artificially inflated financial results for businesses across virtually every industry. A formula relying on 2019 earnings applied in early 2020 would have produced a very different result than one relying on 2020 earnings applied in 2021. Neither result would necessarily reflect the true underlying value of the business.

I worked with a company whose formula was built on a multiple of the previous quarter's earnings, which were directly tied to equity market performance. When I ran their formula across several years of quarterly data to show what the valuation would have been had the agreement been triggered at various points, the result was exactly what you would expect. In strong quarters, the seller won decisively. In weak quarters, the buyer acquired the business at a deep discount. Neither outcome was what the owners intended when they designed the formula.

To their credit, they acted on what they found. They revised the formula to average multiple quarters of earnings and incorporated adjustments to smooth out the peaks and valleys. That is precisely what practicing your agreement is designed to accomplish — finding the flaw while you have time to correct it.

If your agreement uses a formula, run it today. Run it against your best year. Run it against your worst year. Run it against the most recent twelve months. If the results diverge significantly, your formula may produce outcomes that one side of the transaction will find deeply unfair — and they will have the legal terms of the agreement to enforce it.

Business Appraisals

The appraisal method introduces an independent third party — a credentialed business valuation professional — to determine

the value of the business at the time the agreement is triggered. In theory, this removes the conflict between buyers and sellers and produces an objective, defensible number. In practice, the quality and outcome of an appraisal depends almost entirely on how well the agreement instructs the appraiser — and most agreements provide surprisingly little guidance.

Here is what I find consistently when working with businesses whose agreements call for an appraisal: the appraisal has never been done. The owners have spent years, sometimes decades, building a business that will be valued by a professional who has never set foot in their industry, reviewed their client relationships, or understood what makes their business worth what it is worth. And the terms governing that appraisal — who qualifies as an appraiser, what standards they must follow, and whether discounts may be applied — are often vague, incomplete, or absent entirely.

Two issues deserve your close attention.

Who Qualifies as an Appraiser?

Many agreements simply state that the value shall be determined by “a qualified and disinterested appraiser chosen by mutual agreement of the parties.” That language sounds reasonable. It is not sufficient. Business valuation is a specialized discipline with recognized professional credentials. If your agreement does not define what qualifies someone to appraise your business, you are leaving that determination open to dispute at the worst possible time. Consider requiring that any appraiser holds one of the following credentials, along with a minimum number of years of relevant experience:

- Accredited Senior Appraiser through the American Society of Appraisers

- Certified Valuation Analyst through the National Association of Certified Valuation Analysts
- Accredited in Business Valuation designation through the American Institute of Certified Public Accountants

Specifying credentials is not overly restrictive — it is basic due diligence for a process that may determine the value of your life's work.

Are Discounts Addressed?

This is where appraisal-based agreements most frequently produce outcomes that blindside owners — and the financial consequences can be staggering.

In a closely held business with multiple owners, each partner typically holds a minority, nonmarketable interest. No single owner controls the business, and no ready market exists for their individual ownership stake. When a business appraiser values that interest without specific instructions to the contrary, they will often apply discounts for lack of control and lack of marketability. Those discounts are professionally defensible. They are also potentially devastating to the selling owner.

I worked on a case involving a business with three equal partners and a total appraised value of \$40 million. Each owner held an interest of approximately \$13.3 million on their personal balance sheet. When one owner unexpectedly resigned and triggered the buy-sell agreement, the appraisal was conducted according to the agreement's instructions — which said nothing about discounts. The departing owner received \$10.2 million. The discounts for lack of marketability and lack of control reduced his payout by more than 23 percent — over \$3 million below what he believed his interest was worth.

Contrast that outcome with the instructions found in a separate agreement I reviewed, which stated explicitly: “The transferor or his or her personal representative shall pick one appraiser and the non-transferring Members shall pick one appraiser to determine the fair market value of the whole Company, not taking into account any minority interest or lack of marketability discounts.”

Those two sentences eliminate the ambiguity entirely. The owners decided in advance how they wanted the business to be valued, and they wrote it into the agreement. That is what a well-practiced agreement looks like.

The Question You Must Be Able to Answer

After working through this section, return to the question I asked at the beginning. What is your business worth today — according to the legally enforceable terms of your agreement?

If you still cannot answer it, that is your next assignment. Pull out the agreement. Identify the valuation method. Run the numbers. And if what you find does not match what you expected, do not set the booklet down and move on. That gap between expectation and reality is exactly what you need to address — before someone else discovers it for you.

Payment Terms

You have identified the trigger event. You have established the value of the business. Now comes the question that determines whether any of it actually matters.

Can the buyer pay?

This is the question most buy-sell agreements answer incompletely, if they answer it at all. Payment terms are the final cord in the agreement, and they are the cord most likely to snap under real-world pressure. A legally valid obligation to purchase a business interest is worth nothing if the buyer does not have the means to fulfill it. And a seller who is owed a buyout they cannot collect is not protected — they are simply holding an unenforceable promise at the moment they are most vulnerable.

The Four Questions Your Agreement Must Answer

Every buy-sell agreement should be able to answer the following four questions for every trigger event it covers. Pull out your agreement and see how many of these you can answer with confidence.

1. What is the down payment?

When the agreement is triggered, how much is due immediately? Is there a lump sum requirement, or does the obligation begin with a structured payment? If an owner dies tonight, does the surviving partner have access to enough capital to meet the immediate payment obligation — or will the deceased owner's family be waiting for money the business cannot produce on short notice?

2. What is the interest rate?

If the buyout is structured as a note — payments over time rather than a lump sum — what interest rate applies? Is it fixed or variable? Is the rate specified in the agreement, or is it left to be negotiated at the time of the trigger? Leaving the interest rate undefined is an invitation to conflict between a buyer who wants the lowest possible rate and a seller who wants the highest.

3. What is the length of the payment period?

How many years does the buyer have to complete the purchase? A five-year note and a fifteen-year note produce dramatically different monthly obligations and dramatically different outcomes for the seller's financial security. Does the length of the note in your agreement reflect what is affordable for the buyer and acceptable for the seller?

4. Are there any additional terms?

Is there a prepayment penalty that prevents the buyer from retiring the debt early? What are the income tax consequences of receiving a lump sum versus structured payments over time — for both the buyer and the seller? What happens if the buyer misses a payment? These are not minor details. They are the terms that determine whether the agreement functions as a workable transaction or collapses under the weight of its own obligations.

Viability: The Standard Every Agreement Must Meet

Here is a word I want you to keep in mind as you review your payment terms: **viability**.

A payment obligation is only as valuable as the buyer's ability to meet it. If your agreement sets payment terms that the buyer

genuinely cannot afford, you have not created a solution — you have created a crisis with a legal framework around it. The business suffers. The buyer is committed to payments they cannot make. The seller does not receive what they are owed. Everyone loses.

The practical question is not only what the agreement says. It is whether what the agreement says can actually be executed under every trigger scenario it covers. The answer to that question depends heavily on one thing: funding.

Matching Every Trigger to a Funding Source

One of the most valuable exercises I walk business owners through is what I call trigger-to-funding matching. For every trigger event in your agreement, there should be a clearly identified source of funds capable of meeting the payment obligation. If you cannot identify that source today, you have found a gap in your agreement that needs to be addressed.

Death

Death is the trigger event most commonly paired with a specific funding mechanism — life insurance. A properly structured life insurance policy can deliver an immediate, substantial, income-tax-free sum at precisely the moment the obligation arises. The agreement should specify how those proceeds are to be used. Are all the insurance proceeds directed toward the buyout? Is a portion retained by the business for operational continuity? Without clear instructions, the disposition of insurance proceeds can become a source of conflict between the surviving owners and the deceased owner's estate.

If your agreement contemplates life insurance as the funding mechanism for a death trigger, ask yourself whether the policies currently in force are sufficient to cover the buyout at today's

valuation. An agreement funded with life insurance purchased ten years ago may be significantly underfunded relative to what the business is worth today. That gap — between the insurance proceeds available and the price the agreement will produce — is a problem worth quantifying before it becomes a reality.

Retirement

Now consider a very different scenario. An owner announces their intention to retire in twelve months. There are no life insurance proceeds. There is no immediate liquidity event. The business must find a way to fund the buyout through one or more of the following sources: business cash flow, personal assets of the remaining owners, a loan, or the buy-in of a new owner brought in to replace the departing partner.

Has your team of advisors mapped out how a retirement buyout would be funded under your current agreement? If not, that conversation needs to happen now, not the day the retirement notice is delivered.

The Cost of Discovering This Too Late

I want to be direct with you about what happens when payment terms are not viable and the agreement is triggered anyway.

The seller — or their family — is left negotiating from a position of weakness. The business that was supposed to provide financial security becomes a source of conflict and uncertainty. Relationships that survived decades of partnership dissolve into litigation. And the business itself, which both parties invested their careers in building, is destabilized at precisely the moment it needs strong, focused leadership.

The purpose of practicing your buy-sell agreement is to find these problems while you still have the ability — and the time — to solve them. Payment terms that are unaffordable today can

be restructured today. Funding gaps that exist today can be addressed today. A trigger event that occurs tomorrow leaves you with whatever the agreement says, and no opportunity to change it.

Questions to Ask About Your Payment Terms

Work through the following questions with your agreement in hand and your team of advisors at the table. For each trigger event covered in your agreement:

- What is the funding source?
- Is that funding source available immediately, or does it require time to access?
- Are the payment terms — down payment, interest rate, length of note — affordable for the buyer under current financial conditions?
- Are those same terms acceptable to the seller, or their family, as a source of financial security?
- Has the income tax impact of the payment structure been analyzed for both parties?
- If the primary funding source falls short, what is the contingency?

If you cannot answer these questions today, you are not ready for the agreement to be triggered. The good news is that today is still a day you can do something about it.

The Fire Drill

You have just walked through the three cords of your buy-sell agreement — trigger events, valuation, and payment terms. You have read the court cases. You have seen what happens when agreements are never practiced and problems are discovered too late.

Now it is your turn.

What follows is a fire drill. Not a theoretical exercise. Not something to glance at and set aside. A fire drill is a practice run for a real event — and the purpose of this one is to force a direct confrontation with the question at the heart of this entire booklet.

Will your buy-sell agreement work like you need it to when it is triggered?

Complete this exercise honestly. Do it alone first. Then do it with your business partners present. The gaps between your individual answers are often the most revealing data point of all.

(A) What do you believe your business is worth today?

\$ _____

Write down your number before you discuss it with anyone. Do not anchor to what you paid for your interest, what you hope to retire on, or what a competitor sold for. What do you genuinely believe the business is worth right now?

(B) What do your business partners think it is worth?

Ask each of them to write their number independently before sharing.

Partner 1: _____

Partner 2: _____

Partner 3: _____

How far apart are the numbers? If there is meaningful disagreement among partners about the value of the business you built together, imagine how that disagreement will look the day the agreement is triggered and real money is on the line.

(C) What is your ownership percentage worth today based on your answer in (A)?

\$ _____

This is the number that represents your share of the business on your personal balance sheet. For many business owners, this number represents most of their net worth.

(D) Would you sell your interest for the number you arrived at in (C)?

Yes No

If the answer is no, your agreement may be undervaluing what you have built.

(E) Would you buy your partner's interest for the number you arrived at in (C)?

Yes No

If the answer is no, your agreement may be producing a number no reasonable buyer would willingly pay — which raises serious questions about whether the buyout is executable at all.

(F) Will your buy-sell agreement's valuation method produce the same number you arrived at in (A) and (C)?

Yes No Unsure

If you answered Unsure, that is your most urgent assignment. Go back to the valuation section, identify the method your agreement uses, and run the numbers. Do not leave this question unanswered.

(G) What are the payment terms specified in your agreement?

Down Payment: _____

Interest Rate: _____

Length of Note: _____

Est. Monthly Payment: _____

(H) Can you — or can the business — meet the payment obligation outlined in (G)?

Yes No Unsure

(I) Can your business partners meet the payment obligation outlined in (G) if they are buying you out?

Yes No Unsure

(J) For each trigger event in your agreement, can you identify the funding source?

Death: _____

Disability: _____

Retirement: _____

Involuntary Withdrawal: _____

Divorce: _____

Bankruptcy: _____

If any of these lines are blank, you have found a gap. A trigger event without a funding source is not a plan — it is a problem waiting to happen.

What Did You Find?

If you completed this fire drill and every answer pointed to an agreement that is current, clearly written, fairly valued, and fully funded — congratulations. You have done what most business owners have never done. You have practiced your agreement, and you have the peace of mind that comes with knowing it will work.

If you found gaps — a valuation that does not match reality, payment terms that are not affordable, funding sources that do not exist, or partners who cannot agree on what the business is worth — you now have something more valuable than peace of mind. You have information. And information, when acted upon, is the difference between a problem discovered in time and a crisis discovered too late.

The fire drill is complete. The next question is what you are going to do with what you find.

Next Steps: What Will You Do?

You have referenced the court cases. You have seen the valuation gaps. You have worked through the fire drill. You now know more about your buy-sell agreement than most business owners in this country — most of whom will not read a booklet like this, will not run a fire drill, and will not discover the problems in their agreement until the day those problems cannot be fixed.

You are not most business owners. But knowing is only half of the equation. The other half is acting.

The Window You Have Right Now

The opportunity to fix your buy-sell agreement exists only in one specific window of time — before it is triggered. That window may be years away. It may be closer than you think. You do not get to choose when a trigger event occurs. Disability does not wait for a convenient moment. A partner's death does not arrive on a schedule. A divorce does not pause while you update your agreement.

What you can control is what you do today.

If your fire drill revealed that everything is in order — your valuation method is current and accurate, your payment terms are viable, your funding sources are in place, and every owner understands the agreement the same way — then you have accomplished something genuinely valuable. Document it. Review it again in twelve months. Business values change. Ownership structures change. Life changes. An agreement that works today may have gaps a year from now if it is not revisited.

If your fire drill revealed problems — and in my experience, it almost always does — then you are sitting on information that has a shelf life. Every day that passes without addressing what you find is a day the window narrows.

Do not fail to implement.

Who Needs to Be at the Table

Practicing your buy-sell agreement is not a solo exercise, and fixing the problems you find is not something you should attempt without the right team in place.

Your attorney is the only person who should make formal changes to the agreement itself. If your fire drill revealed ambiguous language, missing trigger definitions, inadequate appraisal instructions, or payment terms that need restructuring, an experienced business attorney needs to be involved in drafting those corrections.

Your CPA brings essential perspective on the tax implications of your valuation method and payment structure. The difference between a lump sum buyout and a structured note can have significant income tax consequences for both the buyer and the seller.

Your wealth manager or financial planner can help you understand how your business interest fits into your broader financial picture — and whether the value your agreement will produce is sufficient to meet your personal financial goals in the event of a buyout.

Your insurance advisor plays a critical role in ensuring that the funding mechanisms for death and disability triggers are in place, properly structured, and adequate relative to the current

value of the business. A life insurance policy purchased ten years ago may be significantly underfunded today.

What I Do and How I Can Help

I have spent my career working with business owners on exactly the challenges this booklet describes. I am not an attorney, and I will not draft your agreement. What I will do is sit down with you, review what you have, run the fire drill with you, and help you identify where the gaps are before they become crises.

In my experience, that conversation produces one of two outcomes. Either we confirm that your agreement is in good shape and you leave with genuine peace of mind — or we find something that needs to be addressed, and you leave with a clear picture of what to do next. Either outcome is a win. The only losing outcome is the one where we never have the conversation and you find out how your agreement works on the day it is triggered.

Take the Next Step Today

I am asking you to do one of two things before you set this booklet down.

If you have a buy-sell agreement, send it to me. I will review it before we speak so that our conversation is specific, productive, and focused on what matters most for your situation.

If you do not have a buy-sell agreement, call me. We will talk about what one needs to accomplish for your specific business, your ownership structure, and your personal financial goals.

There is no obligation and no cost for that initial conversation. What there is, is a limited window of time in which your agreement can still be fixed, updated, or created. That window is open right now.

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The business you have built deserves a plan that will work when it is needed most. Let's make sure yours does.

Books for Further Reading

- *Mercer, Z. Christopher (2010). Buy-Sell Agreements for Closely Held and Family Business Owners. Peabody Publishing LP. mercercapital.com*
- *Mercer, Z. Christopher (2014). Unlocking Private Company Wealth. Peabody Publishing LP. chrismercer.net*
- *Hood, Paul (2021). Buy-Sell Agreements: The Last Will & Testament for Your Business. Paul Hood Services. paulhoodservices.com*
- *Mezzullo, Louis (2021). An Estate Planner's Guide to Buy-Sell Agreements for the Closely Held Business. American Bar Association.*

About the Author

Todd Russell, CFP®, CLU, ChFC

Founder, Private Client Strategies LLC

The first death claim I ever paid was to my mother, after the passing of my father.

That experience did not just shape my career. It defined it. I understood in a deeply personal way what it means for a family to receive the financial protection that someone who loved them had the foresight to put in place. I also understood what it means when that protection is absent, inadequate, or structured in a way that does not work as intended. From that point forward, my commitment to this work has never been abstract. It is personal.

I founded Private Client Strategies LLC after more than two decades in the insurance and risk management industry, with a focus on helping business owners protect what they have built and plan for every contingency — including the ones they hope will never happen. After graduating with honors from the University of South Alabama, I began my career in 2002 with First Protective Insurance Group. In 2006, I helped establish and grow the Nashville, Tennessee office, where I developed a focused practice serving financial planners and the business owners who depend on them.

Over the course of my career, I have sat across the table from hundreds of business owners and asked them a simple question: have you ever read your buy-sell agreement? The answer, more often than not, is no. This booklet exists because of that answer — and because of what I have seen happen to businesses, families, and partnerships when agreements that

were never practiced failed at the moment they were needed most.

I hold the CERTIFIED FINANCIAL PLANNER™ designation along with the CLU and ChFC designations. I have taught continuing education courses to financial planners on practical risk management, business buy-sell agreements, and long-term care alternatives. I have served on the board of directors of the Middle Tennessee chapter of the Financial Planning Association and as past president of the Society of Financial Service Professionals.

Outside of my practice, I have been married to my wife Kari since 2002. We have three children — Hudson, Caroline, and Eden. They are the reason I do this work with the conviction that I do, and they are the reason I believe every business owner deserves a plan that will work for their family when the time comes.

If this booklet raises questions about your own agreement, I hope you will reach out. That conversation is exactly why I wrote it.

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— BEFORE YOU PUT THIS BOOK DOWN —

DOES YOUR AGREEMENT ACTUALLY WORK?

Most business owners signed their buy-sell agreement, filed it away, and never looked at it again. They assume it will work when the time comes. That assumption is dangerous — and in some cases, it has proven to be catastrophic.

Your agreement is legal. But is it viable? Can it be executed — at the right price, under the right terms, with the right funding — on the day it is triggered? This booklet forces you to find out.

-
- ◆ When was the last time you read your buy-sell agreement cover to cover?
-
- ◆ Do you and your partners agree on what the business is worth today?
-
- ◆ Will your valuation method produce that number when it matters most?
-
- ◆ Are the payment terms affordable — for the buyer and fair to the seller?
-
- ◆ Is there a funded plan for every trigger event in your agreement?

— LET'S REVIEW YOUR AGREEMENT —

If this booklet raised questions you cannot answer with confidence, it has served its purpose.

*Most buy-sell agreements are signed, filed away, and forgotten.
The real test comes when the agreement is triggered.*

Before that day arrives, make sure yours actually works.