

There is a moment in every acquisition when momentum either snaps into place or quietly dies. It rarely happens at closing. It happens when a seller opens your Letter of Intent, reads the first page, and decides whether you have the judgment, alignment, and discipline to carry a deal to daylight. The LOI is not just a placeholder on the path to a purchase agreement. It is the deal, distilled. Buyers who treat it as a formality learn hard lessons. Sellers who ignore its structure lose leverage they never recover.

I have written, reviewed, and renegotiated hundreds of LOIs across Main Street businesses, lower middle market roll-ups, and carve-outs from public companies. The patterns are consistent. Good LOIs secure access and trust, reduce noise in diligence, and set up a closing process that puts pressure on issues that matter. Weak LOIs trap you in re-trades, slipped timelines, and attorney sprawl. Let's pull apart what works.

What a Letter of Intent Actually Does

At its core, the LOI frames four types of commitments.



First, economic agreement. Price, structure, and what price means. Is it enterprise value or equity value? Cash free, debt free with normalized working capital? A headline number without these qualifiers is a mirage.

Second, control of process. Exclusivity, information access, cooperation, and who runs point. If you fail to lock this down, diligence becomes a scavenger hunt while other buyers dance in and out of the seller's inbox.

Third, risk allocation. Earnouts, escrows, holdbacks, and adjustments point to where unknowns will land if they turn into losses. Without directional agreement at the LOI stage, the definitive agreement becomes a battlefield.



Fourth, pace and certainty. Dated milestones, not feelings. Sellers want to know how and when you close. Lenders and investors want to see a plan that shows you can.

In heavy regulated spaces and in carve-outs, the LOI adds a fifth function. It forces scoping of transition services, licenses, consents, and IT separation before legal fees balloon. If you miss this, you will find yourself paying six figures to discover that a mission-critical system belongs to the parent company, and your “simple” deal needs a TSA that takes 90 days and two integration engineers.

The Psychology Behind a Strong LOI

People buy and sell with emotion that seeks justification in numbers. Owners who built their companies over decades will trade a small amount of price for dignity, legacy, and a feeling that the buyer respects their work. Professional sellers, like private equity funds, want a path to close with minimal drama and a buyer who won't torture their team in diligence.

A credible LOI signals three things.

You know their business. Two or three specific references to the company's economics or market, drawn from pre-LOI prep, will do more for your credibility than any puffery. For example, citing that gross margins dipped 250 basis points last summer because of resin pricing, then noting how your structure accounts for commodity volatility, shows real engagement.

You know how deals close. Dates, templates, responsible parties, and lender readiness instill confidence. Vague language about “expedited diligence” reads like a wish.

You are aligned on trade-offs. Experienced sellers know there is no perfect deal. If you are clear on where you need protection and where you can be flexible, you look like a partner, not a tourist.

Anatomy of a Winning LOI

The form is simple, but details carry weight. Here is how I structure it, not as a template to copy blindly, but as a mental checklist to fit to the specific deal.

Opening statement. One tight paragraph that states intent to purchase, the target entity, and the type of transaction. Name the buyer entity early. If you still need to form the SPV, say so and reference your fund or holding company.

Transaction type [Business Acquisition](#) and structure. Asset purchase or stock purchase. If you are buying assets, identify excluded assets and assumed liabilities in plain English, with a note that definitive schedules will refine specifics. If stock, flag whether you need a Section 338(h)(10) election for tax purposes. Do not punt this to the purchase agreement, especially if the seller's tax situation depends on it.

Consideration. Spell out cash at close, earnouts, seller notes, rollover equity, and any contingent payments. Convert percentages to dollars at the proposed headline price so the split is obvious. For seller notes, include interest rate, amortization, security, and subordination to senior debt. For rollovers, define class of equity, rights, and target governance so the seller is not surprised later by a minority drag-along they dislike.

Working capital and net debt. Define enterprise value and equity value clearly. State a preliminary working capital peg methodology and who calculates it. I prefer referencing a trailing twelve-month average by month, excluding seasonality anomalies, with a specific reference date for the balance sheet used at close. In volatile businesses, consider a collar so immaterial swings do not create bad blood.

Earnouts. If you need one, anchor on metrics the seller controls and can influence post-close. Revenue-based earnouts are easy to explain but invite channel stuffing. EBITDA-based earnouts require trust because accounting policies matter. If you must use EBITDA, include high-level accounting principles in the LOI, such as maintaining previous capitalization policy, treatment of owner comp, and extraordinary items. Keep earnouts short. Two years is tolerable. Three years can work if payments are front-loaded or capped attractively.

Escrow and indemnity. Even at LOI, define the escrow amount as a percent of purchase price and the survival period for general reps. If industry norms in your deal band are 10 percent for 12 to 18 months, say so directly. If you expect a RWI policy, state who pays the premium and how it changes escrow requirements. In many lower middle market deals, RWI is not cost-effective, so be candid.

Management and staff. Are you keeping the owner in place? For how long? At what compensation? If the seller is exiting, outline transition terms and consulting support. In one HVAC roll-up, we offered the founder a six-month, four-days-per-month consulting arrangement at a fair day rate with a non-solicit carve-out that let him mentor two protégés. That single paragraph in the LOI made the negotiation humane and fast.

Exclusivity. Be specific. Start date, end date, renewal provisions, and conditions for termination. Well-crafted exclusivity includes a seller obligation to cease discussions with other parties and to direct all inbound interest to the buyer. It also includes a buyer obligation to use commercially reasonable efforts to close. Make it mutual and reasonable, otherwise counsel will spend three hours arguing adjectives.

Information access and diligence plan. Attach a one-page schedule that lists key items and responsible parties. Break diligence into workstreams with dates: quality of earnings, legal, tax, HR, environmental, technology. Flag any third-party consents you already see. If lender diligence needs a 13-week cash flow or a collateral exam, include that to avoid later panic.

Financing. State your sources plainly. If using senior debt, identify the lender category and status of terms. If you have an LOI from a bank, mention it. If equity commitments are subject to IC approval, state the timeline and probability based on prior processes. Bluffing here is a mistake. Sellers can smell it.

Regulatory and third-party approvals. Name them. License transfers in healthcare, TTB permits for beverage, landlord estoppels and assignments for leases, franchise approvals. If timing risk lives here, outline how the parties will cooperate. I have seen a simple liquor license delay add 45 days and \$20,000 in temp staffing to keep bartenders on payroll without sales.

Timing and milestones. Put dates on a calendar. Signing of LOI, completion of confirmatory QofE, draft purchase agreement, financing approval, target close. Include contingencies such as holiday slowdowns or audit season if

relevant. Make the total timeline plausible. If your typical bank underwriting takes 35 to 45 days, do not promise a 30-day close.

Key conditions. Enumerate material conditions precedent only. Clean title to assets, assignment of critical contracts, no material adverse change, completion of satisfactory QofE, and acceptance of definitive agreements consistent with this LOI. The phrase "consistent with" is important. It is the shield against a re-trade by either side.

Confidentiality and announcements. Reference any existing NDA. Include language barring public disclosure of the LOI except as required by law or by mutual consent. In founder-led companies, rumor control matters. I learned this the hard way in a small town where a banker's offhand comment in a golf foursome found its way to a competitor who poached two sales reps before closing.

Expenses. Each party bears its own costs. If you are asking the seller to pay for a QofE or for a portion of the RWI premium, explain the rationale and trade-offs. In some processes, paying for the QofE is a small price for speed and credibility.

Non-binding nature, with exceptions. The LOI should be non-binding for purchase terms, but binding for exclusivity, confidentiality, governing law, and sometimes access clauses. Spell this out.

Signatures and acceptance date. A real date matters. Give the seller a short fuse if you need it, but only if you can back it up with responsiveness.

How Much Detail Belongs in an LOI

Enough to prevent fights later, not so much that you litigate in advance. That line depends on the deal. In a \$2.5 million asset purchase of a single-location service company, three pages can work. In a \$35 million stock deal with an earnout tied to FDA clearance and a TSA from a corporate parent, I have written 10 to 12 pages plus exhibits. When in doubt, include detail where your risk lives. If customer concentration is high, include covenant-like language about non-solicit and handoff cooperation. If the supplier base is fragile, condition the deal on successful assignment of specific vendor agreements.

One rule has saved me headaches. Any item that, if unresolved, would cause either party to walk should be in the LOI. If the seller thinks post-close employment for their children is essential, say so now. If you will not accept a personal guarantee on a seller note, say that now. Undefined deal breakers metastasize in the purchase agreement.

Price Isn't Just a Number

Headline price gets attention. Terms close deals. I once watched a founder turn down a \$19 million offer for a \$17.6 million offer. The lower bid had a clean 90 percent cash at close, a 10 percent escrow for 12 months, and no earnout. The higher bid had a three-year EBITDA earnout that could be kneecapped by modest accounting policy changes. After two weeks of reflecting and talking to other owners who had lived with earnouts, the founder chose certainty. The "loss" on headline value felt like a premium on peace of mind.

Buyers in Business Acquisition Training programs often learn this the hard way. In the first three to five deals they chase, they over-index to price to win the LOI, then try to claw back value in diligence. They burn relationships and referrals. More experienced buyers price with a pencil, not a crayon, and allocate value across certainty levers. If you want a seller note, pay a fair rate. If you need a long earnout, make the base cash compelling. If you want generous escrow caps, consider paying the RWI premium.

Working Capital: The Silent Price Term

Most first-time buyers underestimate how much working capital friction derails deals. The seller thinks of “cash at close.” The buyer thinks of “what I need on Day 1 to avoid wiring in more cash.” If you do not align on the peg and the definition early, you will have a nasty surprise two days before closing when the accountant produces a calculation that swings value by six figures.



I prefer anchoring on an average of the last twelve months of month-end net working capital, removing months with known one-off spikes like inventory buys tied to a facility move. If the business is seasonal, put in a collar and agree that only deviations outside a plus-or-minus range trigger a true-up. In businesses with prepayments or deferred revenue, set definitions carefully to avoid double-counting liabilities or assets. If your lender requires a minimum cash covenant and the target operates with daily sweeps, make sure the definitions talk to each other.

Earnouts That Work

Earnouts salvage deals that would otherwise be stuck, but only if they are simple, bounded, and fair. In an industrial services company where one utility contract represented 35 percent of revenue and was up for rebid within six months, we used a two-year revenue earnout tied solely to that contract. If it renewed, the seller received the full contingent amount regardless of overall company performance. If it downsized, the earnout scaled proportionally. We put in a cap on customer price increases the buyer could force without seller consent during the earnout period, to prevent gaming. Everyone slept at night.

Contrast that with a three-year EBITDA earnout in a multi-product company with muddled cost accounting. The seller insisted that EBITDA would rise as the buyer absorbed SG&A across the platform. The buyer assumed the

opposite as it planned to invest in sales and systems. That LOI should have used revenue or gross profit by product line as a proxy. We burned six weeks to learn that lesson and reset the structure.

Exclusivity Without Bad Blood

Exclusivity is about fairness. Sellers do not want to be tied up endlessly. Buyers do not want to invest in diligence while the deal is shopped. The compromise looks like 45 to 60 days of exclusivity with automatic extension if the buyer hits dated milestones, such as delivery of a markup of the purchase agreement or receipt of lender credit approval. Include a termination right for material breaches, not feelings. If you want a longer period, pay for it by funding the QofE or making a refundable deposit that becomes non-refundable after legal milestones. Owners respect skin in the game.

The Right Tone: Professional, Direct, Human

A letter of intent is a legal document, but its tone should be readable. You are writing to a human who will show this to their spouse and their attorney. Use short sentences to describe complex terms. Avoid buried definitions. Do not posture. If you are a first-time buyer, do not hide it. Confidence comes from preparation, not from theatrics. One of the best LOIs I have seen from a searcher included a one-paragraph summary of two failed deals and what he learned, which directly addressed the seller's fear of becoming "deal number three."

Common Mistakes That Sink LOIs

- Vague price language that mixes enterprise value and equity value without clarity on debt, cash, and working capital.
- Earnouts tied to metrics the seller cannot control, or that invite disputes about accounting policies.
- Overreaching exclusivity with no milestones or mutual obligations, which triggers seller defensiveness.
- Ignoring third-party approvals like landlord consents, customer assignment clauses, or regulatory licenses that control your timeline.
- Hiding financing uncertainty, then trying to renegotiate terms after your lender balks.

Crafting a Seller-Friendly Yet Buyer-Protective LOI

The best letters set a fair frame and earn goodwill while preserving the buyer's ability to walk if new information changes the thesis. Start by stating the vision in one or two sentences: what you plan to do with the company and why you are the right steward. Tie this to the seller's priorities, which you should know from thoughtful conversations. If the seller wants their team taken care of, say explicitly that you do not plan layoffs and that compensation and benefits will be respected for a defined period, subject to customary business needs. Qualifiers matter, but empathy reads.

Then get technical. The seller will hand this to counsel, who will look for traps, ambiguity, and asymmetry. Where you are being tough, be honest about it. If customer concentration worries you, say that your escrow cap needs to be higher or that you require a special indemnity for that customer. Lawyers can work with clear positions. They struggle with vagueness.

Finally, do not over-lawyer the LOI. Save the creative drafting for the purchase agreement. The LOI should be plain, specific, and organized. If you find yourself defining 20 terms, you have gone too far.

A Brief Anecdote on Timing Discipline

A family-owned packaging company generated about \$4 million in EBITDA with clean margins and a stable customer mix. The seller had one requirement: close before the start of their busy season in late August. We issued an LOI on May 15 with a 70-day exclusivity. The dates in the LOI looked like a Gantt chart: QofE in 21 days, first draft of purchase agreement in 14 days, lender credit committee by day 35, environmental Phase I ordered in week two, landlord consents initiated in week one, IT diligence and TSA scoping in week one.

We missed nothing, and we still closed on August 5, with ten days to spare. Two things saved the timeline that would not have happened if they were not in the LOI. First, the landlord consent. The building was owned by a trust with three siblings who traveled all summer. Because the LOI named the consent as a condition with a target date, the seller's counsel started the process on day three, not day forty. Second, the environmental report turned up a small plume from a neighbor's decades-old solvent tank. Because the LOI allocated environmental risk to the seller up to a cap and set a process for handling it, we negotiated a \$250,000 escrow in two calls, not three weeks. When the lab confirmed the plume was off-site, the escrow released post-close. The LOI's clarity paid for itself.

When a Short LOI Beats a Long One

Not every situation needs a long LOI. In brokered Main Street deals where the broker has a standard process, a two to three page LOI can be ideal. You ride the process, accept their definitions where they are market, and focus on two or three points you care about. I once spent two days perfecting a 12-page LOI for a \$3 million e-commerce asset purchase. The seller's broker forwarded a form LOI that the seller preferred because "it looks like all the others we have signed." We lost time and goodwill. We reset with a short LOI that matched their expectations and saved the heavy lifting for the purchase agreement.

On the other hand, in founder-to-founder negotiations or when Buying a Business without an intermediary, a more detailed LOI helps set expectations and reduces surprises. Owners who have never sold before are navigating a maze. A well-written LOI acts like a guide rail.

Integrating Financing into the LOI Without Spooking the Seller

Sellers fear financing outs, and rightly so. Buyers fear committing to close if a lender pulls back. The path through is transparency married to action. If your debt commitment depends on a QofE above a threshold, write that into the conditions. If your mezzanine provider requires intercreditor terms that can bog down in legal, start that process early and say so. I have had success including a short paragraph that reads like a project plan: lender has received the CIM and management presentation, term sheet signed on [date], field exam scheduled for [date], appraisal ordered, anticipated credit committee on [date]. That paragraph turns "subject to financing" into "here is our plan to finance." Sellers relax when they see movement.

The LOI as Training Ground

If you are engaged in Business Acquisition Training or mentoring junior deal professionals, use the LOI as a teaching tool. Have your team draft the first version from a live conversation, not from a template. Make them state, in their own words, what the seller cares about and how the proposed structure answers those cares. Then mark it up together. Ask where dollars are hiding in the language. Ask what could blow up the timeline. Make them explain why a stock deal with a 338 election serves both sides or why an asset deal avoids legacy liabilities but triggers sales tax on equipment in certain states. The point is not to memorize clauses, but to think like an owner and a lender at the same time.

Two Lean Checklists That Save Deals

- Clarity checklist before you send an LOI:

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- Does the LOI define enterprise value, equity value, net debt, and working capital peg in plain language?
- Are earnout metrics simple, controllable, and tied to accounting principles both parties understand?
- Is exclusivity fair, time-bound, and linked to milestones you can hit?
- Have you identified third-party approvals and consents that control the timeline?
- Have you stated financing sources and concrete steps already taken?
- Seller relationship checklist during LOI stage:
 - Did you restate, in writing, what the seller told you matters most?
 - Have you offered a reasonable transition plan that respects their team?
 - Are your tough terms explained without euphemism?
 - Do your dates reflect how long their accountant, attorney, and key partners actually need?
 - Have you asked what would make them comfortable announcing the deal internally and when?

Final Thoughts From the Trenches

A Letter of Intent is a promise to try in good faith, not a guarantee. Still, the way you write it affects everything that follows. Treat it like the blueprint to a complex renovation. The more honest and specific the drawing, the fewer change orders later.

If you are Buying a Business for the first time, fight the urge to spray LOIs. Do the work up front to understand the business, then write with precision. If you are a veteran, resist the pull of boilerplate. Every company has a few idiosyncrasies that deserve ink. People remember how you handled their first real interaction under pressure. They are reading not only the words, but your judgment between the lines.

Write an LOI that a seller is proud to sign and that your future self, sitting at a closing table after a month of late nights, will thank you for.