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I am buying a business. Can I make the seller sign a noncompetition agreement?





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Question:

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Answer:

Yes. A noncompetition agreement can be either a distinct agreement or part of a sales contract. Its purpose is to prohibit the seller from working in or starting a related or competing business in a specified geographic area for a specified period of time.

If sensitive or confidential information (e.g., customer lists, pricing information, manufacturing or sales materials) is a component of the business you're buying, you can require the seller to sign a noncompetition agreement. This will prevent the seller from starting a similar business or going to work for a competitor and walking away with the customers, the employees, or the know-how of the business you just bought. Simply put, it prohibits the seller from competing with you. You may also want to consider entering into noncompetition agreements with the seller's employees.

A noncompetition agreement will be legally enforceable only if it is properly drafted. The courts will generally enforce a noncompetition agreement only if it is drawn narrowly, defines the interest you want to protect, and is related to what you want to achieve--namely, to prevent the seller from competing with you.

Note: Laws regulate the enforceability of noncompetition agreements in many states. They may be unenforceable in some states, and their enforcement may be limited in others. Consult an attorney to determine whether and to what extent noncompetition agreements are enforceable in your state.

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