
A 12-STEP GUIDE TO

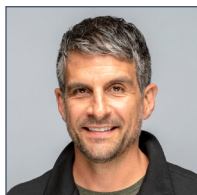
Selling Your Software Company



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Meet the Experts



Tom George

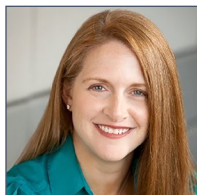
President & Managing Partner of the Constellation Real Estate Group

Tom's spent over 20 years acquiring and managing real estate technology companies and is responsible for driving strategic growth across the Constellation Real Estate Group's portfolio of 19 companies through ongoing acquisitions and integrations, with a heavy focus on long-term technology partnerships. Tom is a champion for technology that strengthens the businesses of its users and enables the industry to spend more time interfacing and increasing their bottom line. In 2020, Tom took the Constellation Real Estate Group into a new vertical with the acquisition of Enspire for Enterprise from Web.com, along with three additional acquisitions in the residential real estate vertical, and in 2021 closed on the acquisition of real estate technology pioneer Top Producer.

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Michele Conn

SVP of Mergers, Acquisitions & Research at T3 Sixty

Michele leads T3 Sixty's mergers and acquisitions activities, with an exclusive focus on the residential real estate brokerage and technology sectors. She has over 25 years of experience growing real estate and technology companies, including roles as a principal at early stage venture capital firm Moderne Ventures; vice president at Move Inc., where she led over \$55 million of acquisitions such as ListHub, TigerLead and FiveStreet; and a decade at the Tribune Company, where she conceived and executed strategic initiatives with CareerBuilder.com, Apartments.com and HomeFinder.com. She holds a B.S. in Accounting from Indiana University and an MBA from Kellogg School of Management at Northwestern University.

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Selling your software company can be the largest, most complex transaction of your life. The sales process can vary substantially in complexity and duration depending on the items outlined in this guide, but every step listed here culminates to determine your final outcome—sale price, terms and structure, post-close integration and more.

Understanding, planning and readying yourself and your business are keys to a successful transaction process.



1. Define Your Goals

The first thing you need to do when considering selling or seeking an investment in your company is define your goals, short- and long-term. What are you trying to accomplish in selling—do you want to stay with the company, walk away from it or transition for a period post-acquisition? Defining your goals ahead of time allows you to better scope the buyer pool to identify buyers whose goals align with your own.

"Think things through before you get in front of a potential buyer. Be honest with yourself about what you want and what you want your future to look like."

- Michele

These goals are critically important in determining the rest of the process:

- Who the right buyer will be
- How you exit
- How you negotiate the terms of a deal

"As you move through every step of the transaction, having set intentions and well-defined goals will simplify decision-making processes and alleviate some of the pains that can accompany negotiations."

- Tom



2. Housekeeping & Preparations

This is the least glamorous step of the sales process, but arguably the most important. Preparing yourself and your business for sale doesn't just make every subsequent step of the sales process easier, it allows you to maximize your value drivers and address issues early on that could otherwise result in fire drills down the road.

"The more organized you are before the process starts, the faster the process will go."

- Michele

Take a look under the hood—matters you might not tend to regularly need to be looked at, fixed and cleaned up.

The valuation process involves looking at current and historical financials, so getting them in a consumable state is crucial to an efficient and successful valuation.

- IP ownership - Make sure you have clear titles to intellectual property
 - Copyrights
 - Patents
 - Trademarks
- Taxes
 - Are all tax filings up to date?
 - Sales tax – are you operating in different states? Make sure you are appropriately charging sales tax across the business.
- Compliance – typically a concern of larger companies
 - Data security
 - GDPR – general data protection regulation
- Customer, vendor, employee contracts
 - Contractors IP assignments
 - Renewals
 - Contracts and terms
 - What is assignable/cancellable?
 - What is in writing (and what is not)?

“Larger companies see nonformal agreements and month-to-month contracts as risks. ‘Will those vendors walk away if this company is acquired or escalate our costs somehow?’ To the extent possible, make sure your contracts are assignable. The fewer deal dependencies you have on vendors, partners or customers, the better.”

- Michele



3. Build Your Team

You want a team that’s been through this sales cycle before that can guide you and advocate for you; you want to trust them and feel aligned with them. These are resources available to help you optimize the entire sales process.

Key external roles and considerations:

- Broker – an investment banker or business broker
- Attorney – your regular attorney may not be the right representation for a purchase agreement and negotiations. You should look for an attorney that is in sync with your team and business broker and who, most importantly, is familiar with market terms in transactions, or you could end up wasting time and attorney’s fees debating things that do not matter big picture.
- Accounting – someone with commercial transaction experience. This isn’t always the same as who you use internally for bookkeeping

3 key characteristics to look for when building your team:

- Responsiveness – there are peaks and valleys throughout the sales cycle, and you want someone who is available to keep things moving at all times.
- Transparency – you do not want a yes-man. You want people who are honest with you privately, so you can achieve the best results.
- Partnership – people who listen to you and provide honest feedback, collaborate and help you through the process.

Beware of the party who says they can get you the highest sale price. Sale price should be realistic, and it should not be the only criteria on which you select your broker. Price is important, but so is the time that can be wasted putting too much stock in an unrealistic figure to end up disappointed down the road.

“Don’t spend time chasing a valuation that may not be reasonable.”

– Tom

Seek out a broker who brings expertise and will give you the experience you want. Less experience and more conservative approaches to negotiations can bring unnecessary challenges that cost time and energy.



4. Initiate Contact with Potential Buyers

Scope potential buyers and establish realistic expectations about the market - get valuation guidance and don't be dismissive. Talk to a short list of buyers to understand what the relationship would be like and how they would operate the business post-close.

“This is where you get to show off your product and what you’ve built. You can also learn about what the potential buyers are doing, where their priorities are and where they think the market is going.”

– Michele

Depending on the goals defined in step one, there may be a specific kind of buyer you are looking for. Finding the right buyer to support your goals is crucial.

“With knowledge of both sides, I often help clients narrow in on the most aligned buyer targets—saving time and effort, while maximizing results. For example, going through a process with a financial buyer (a buyer who will not actively run the business) when the seller really does not want to stick around is not likely the best use of time. Instead, a strategic buyer is more likely to have the capacity and interest in actively running the business.”

– Michele

When you find the right fit, there is a higher likelihood you will get to the closing table.



5. Share Valuation Data, Receive IOIs/LOIs

Provide clean data that buyers need to make an offer. This is often the least comfortable period for sellers, as buyers begin to probe and need detailed information to create a valuation and offer a price.

Constellation Real Estate Group (CREG) has a Basic Information Request (BIR) that provides us with the information we need to produce valuation and LOI.

Buyers will request information from all the housekeeping you did in step 2:

- Financials
- Customers – not simply who they are, but revenue concentration, attrition and tenure
- Staff – salaries, department sizes, etc.

Michele notes that, even with an NDA, there is no guarantee an offer will be made, and that uncertainty can be unsettling.

“There is a delicate balance between what information to share pre-LOI and making sure you share enough for the buyer to get excited about your business.”

– Michele

This is also when the seller and their team should be assessing buyers to ensure there is alignment and a good fit.

For example, CREG provides the following references for sellers:

- Past sellers who have exited
- GMs/sellers who have stayed on with us, post-close
- Corporations we’ve done a carve out from
- Current employees

There should be no surprises and you should learn as much as possible about buyers early on.

A valuation is the gating item for both parties to move forward—agree on a general valuation prior to the LOI.

You can expect an LOI to include:

- Purchase price
- Form of purchase (asset vs equity)
- Cash vs. earn out
- An agreement to work together and exclusivity

"CREG tries to include what we consider to be material legal terms in an LOI, along with assumptions behind the valuation, which can make LOI negotiation a real negotiation. Some terms and details will be deferred until official negotiation, but we prefer to include as much as possible in an LOI to streamline the rest of the sales process."

-Tom

Some buyers have dedicated teams, which provide a more mature process.

"For CREG, we have a financial analyst build out a valuation, then internally go through the investment committee for approval before we present an offer to a seller. It's a streamlined process for us, but different buyers will have different internal processes—some more formal than others."

-Tom

An LOI is only worth the paper it's printed on, unless you get a deal done.



6. Decide on a Buyer

Think through all the factors that best support your goals, and find the right balance for you in terms of payoff. Is it price, finding the best fit or a combination of both?

"Ideally at this stage, the seller has multiple offers with or 1-2 clear best fits. The sellers need to ask themselves if they will enjoy working for the buyer post-close for a period of time. If there is an earn-out component, do they feel confident that they are aligned with buyer management and can achieve that earn out?"

- Michele

Does your decision support the goals you defined in step one? It is critically important to balance opportunities with the softer elements of alignment like personal relationships, culture and trust.



7. Due Diligence

Now that you've settled on a buyer, they will need to inspect all of your contracts and the details of your financials in order to develop a comprehensive appraisal. The more prep work and housekeeping you did in step 2, the easier the diligence process will be.

Diligence is far more involved than the summaries provided earlier on. Instead of the buyer looking at an anonymous list of customers, customer and vendor contracts will be examined in full detail.

You will also be asked for details behind P&L, balance sheets, deferred revenue, accounts payable and more.

Lawyers will be dotting every I and crossing every T, looking for hidden costs and legal risks—don't take offense. It is their job to assess liabilities and evaluate potential.

"I am not a lawyer, but from a business perspective, when in doubt, disclose it."

–Michele

Be as transparent as possible and the process will be a collegial one.



8. Negotiate Terms

Each party will identify what is important and negotiable, and begin to work through them. Negotiations are all about maximizing the things that matter to both parties. What is high-risk, what makes the biggest difference?

"Negotiating 101 tells us you never get 100% of what you want, but understanding what is important to you helps focus your approach."

–Michele

The terms in the agreement spell out the economics of the deal, while the body of terms is about allocating risk—after every transaction, most parties don't even remember what they were fighting for.

"Both sides need to be equally unhappy."

–Tom

While you want your attorney to represent you and your interests, it helps streamline the negotiation process if attorneys on both sides get along.



9. Get Consents

Reel in any customer and vendor contracts that require consent to reassign the contract to the new owner. At this point, legal terms and progress have to be baked enough to talk to third parties, which can also slow things down.

Will any of the contracts that require consent be a closing condition? If a vendor discontinues or contract goes sideways, would it hurt the business? This can have both buyer and seller on pins and needles to get to the closing table.

This is another step that can be dramatically shortened if you proactively prepared in step 2.



10. Close

Closing seems straightforward, but there are still a lot of I's to dot and T's to cross—ancillary docs to exchange, signature pages, wire information. All of the bits and pieces need to come together to finally close.



11. Post-Close Assistance

It is not over yet. Nobody knows your business like you do, and the buyer needs your help up the learning curve.

If you are a seller who is staying with the company, you are now on the same team. Even if you are exiting quickly, there is typically transition period. Post-close assistance and the transition period typically last at least a month, but can span years. These terms are baked during negotiations, and vary substantially.



12. CELEBRATE

AND THAT'S A WRAP.

You got through your sale and, regardless of the duration of your process, you can breathe a sigh of relief – you're done!



About Constellation Real Estate Group

The Constellation Real Estate Group acquires and invests in real estate software companies that are committed to providing long-term solutions and partnerships with franchises, brokers, agents, MLSs, and associations. CREG provides market-leading technology solutions designed specifically for the real estate industry through its portfolio of brands: Market Leader, Top Producer, offr.com, SmartZip, Mortgage Builder, Sharper Agent, Zurple, Z57, Diverse Solutions, TorchX, Constellation1 (Real Estate Digital, Emphasys, Constellation Web Solutions, ReloSpec, Birdview, Baynet, Virtual Properties, and Paradym), and Enspire. Over 500,000 real estate agents, brokerages and banks across North America rely on CREG's products and services to power, manage, and grow their businesses.

For more information, visit constellationreg.com



About T3 Sixty

T3 Sixty is a trusted advisor and management consultancy in the residential real estate brokerage industry. T3 Sixty also provides extensive data services and research to affect intelligent change and growth.

For more information, visit t360.com