A FEW FACTS SO YOU UNDERSTSAND THE OFFER PROCESS.

Access to the **"real"** numbers is crucial when you buy **a food and beverage business**. A business owner is reluctant to share his company records even if he or she has put up the business for sale. If you put yourself in the seller's shoes, you will understand. The seller is contacted by all sorts of strangers who ask for the company's books and records. Some just look; others are interested but lack the financial capability. Some may have the money but are unwilling to pay the price the seller is asking. Or worse, a competitor may send someone to check up the business. The Restaurant Broker will inform the seller of your qualifications, experience, and interest in the business. This will loosen up the seller to share confidential information with you once you have signed the standard NDA.

You, the prospective buyer, who finds the business promising, should have your broker draw up a written offer to buy the business. This shows the seller that you are serious about making a deal. The seller will now see you in a different light and open his books and records for you to study (usually after you sign a confidentiality agreement). This offer to buy sets the wheels in motion.

Written offers convey you are different from the "lookers" who just inquire about the business. Offers to buy are usually non-binding and tentative, with clauses to back out of the deal if you discover that the numbers are incorrect, if you do not get loan approval, etc.

The Letter of Intent can sometimes be used

This is a useful tool and can be used as the basis for further negotiation with the seller. It summarizes the initial major terms of the proposed transaction such as the price and terms and the timing for future steps, so you can start the "due diligence" investigation of the business. If the listed contingencies are not met, you can walk away from the deal. Although a letter of intent or LOI is a non-binding document, you should not look at it as anything less than a true commitment, and the seller should consider this as a serious initiative on your part. This demonstrates the mutual sincerity of both parties to get the deal done.

The Offer to Purchase Agreement otherwise known as the P&S

This is a more comprehensive document that details the negotiated terms and conditions. This includes all of the terms, conditions, warranties, non-compete conditions, inventory, financing, transition and training, leases and contracts, among other things. This discounts any ambiguity that may later come up. Once all the terms and conditions are met, the Offer to Purchase becomes binding.

If there are no surprises from your due diligence (that can cause you to back out of the deal), you can proceed to sign the final formal purchase-and-sale contract which is legally binding. By making offers today, you could wake up one day as the proud owner of a great restaurant.