

# Transactional Task-line

## Private Acquisition

### Topics Covered:

Private M&A | Business Corporations

### Scenario: Acquiring a Portfolio Company with Incentivized Management

A Canadian-owned company that you work with has approached you to act for it on the strategic acquisition of a privately held business. It has not yet been determined whether the transaction will proceed as a purchase of shares in the target company or the purchase of all, or substantially all, of its underlying assets. One or more of the vendors (or the vendor's shareholders) will be kept on as an employee or consultant after the sale. All of the vendors (or the vendor's direct and indirect shareholders) will be required to execute a non-compete covenant. The restrictive covenants will run from the closing date or, in the case of vendors who stay on as management or consultants, from termination of their employment or consulting agreement. The acquisition will be financed by way of cash on hand or funds borrowed by the purchaser. However, the purchaser requires that part of the purchase price be placed in escrow to be paid out 12 months from the closing date.

### Challenges

#### Managing Client Expectations

- The client expects a smooth, orderly transaction flow from beginning to end, and that the transaction will close within a tight timeline.
- The client sees you as a key member of its negotiating team and as spearheading the legal due diligence team. You are market wise and negotiation savvy.

#### Client's Budget

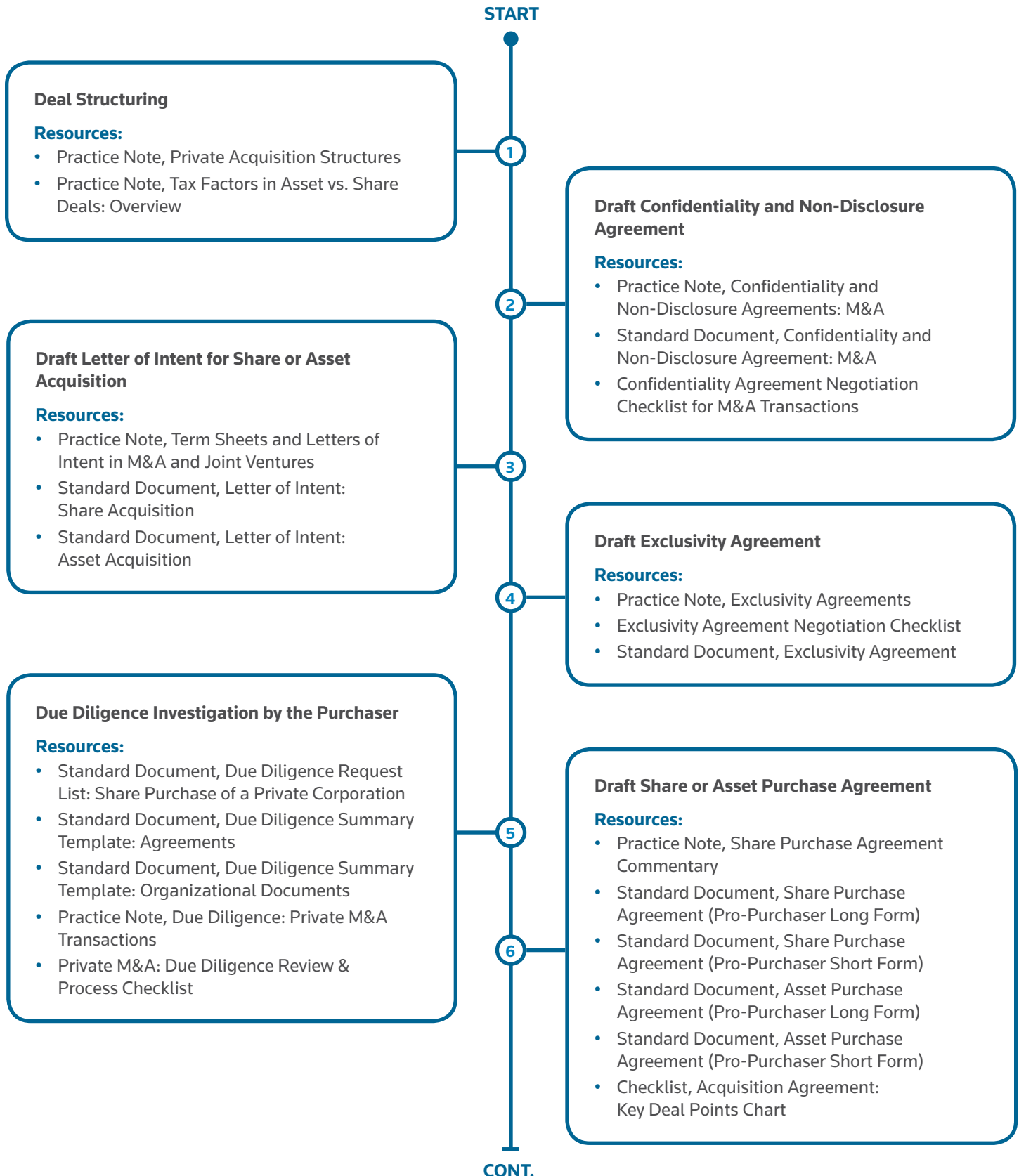
- The client has a choice of firms to use, and cost is an important factor in their decision.
- You may have to assemble a team and delegate the overall workload to keep time and costs to a minimum. There may be a concern that the associates zero in on what is relevant to a self-financed acquisition of a domestic target by a domestic purchaser.

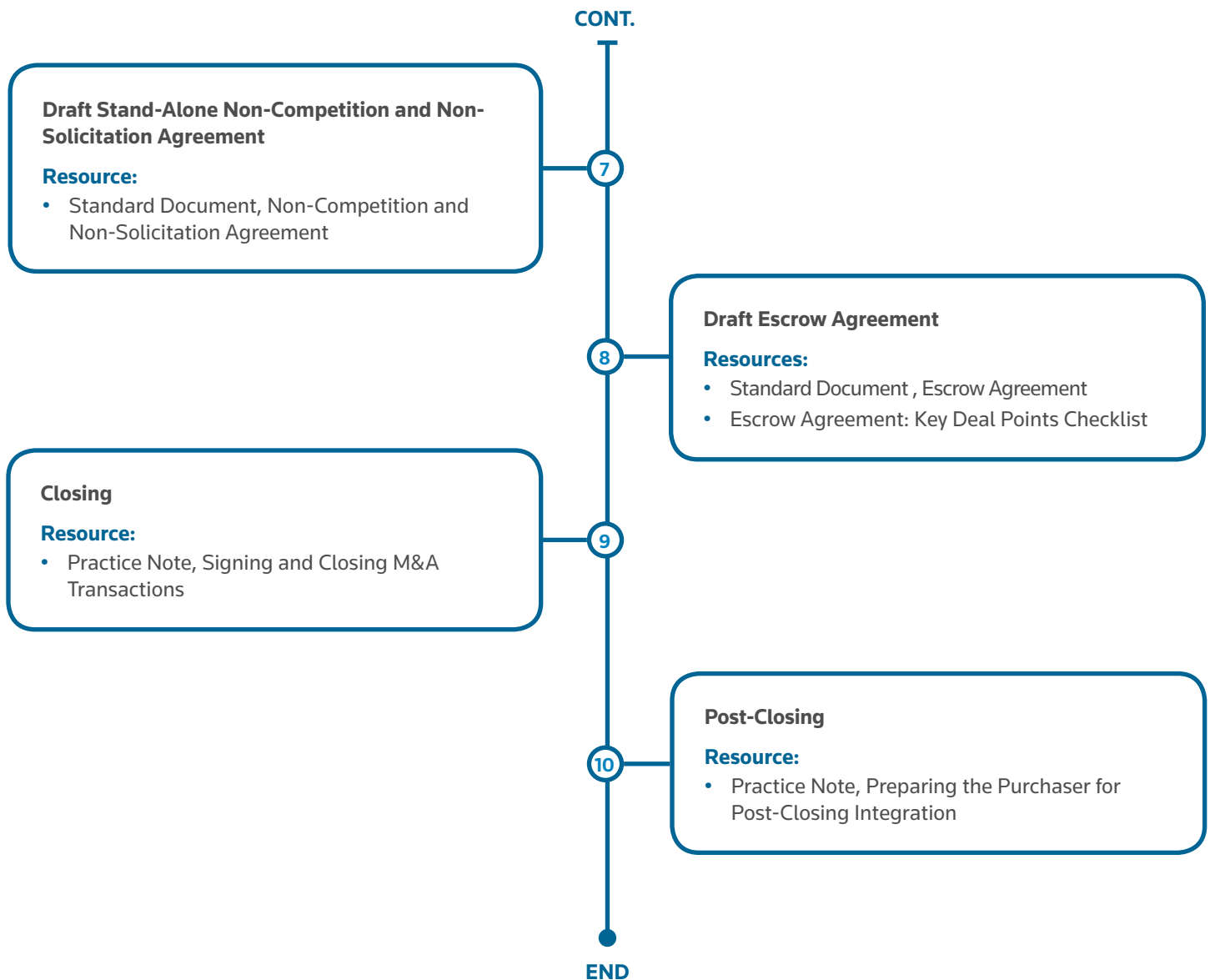
#### Expertise

- A tightly managed team effort is required to negotiate and complete the transaction on time and on budget.



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