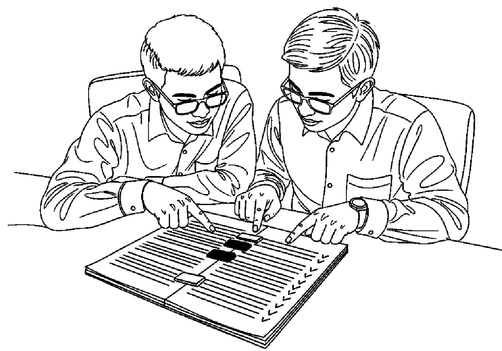
SPECIFIC-CASE

WORKSHEET 9 OF 9

Key Partner Demands Change-of-Control Termination Right

Scenario: You are in the final stages of negotiating a material distribution or licensing contract with a key partner. They have inserted a clause giving them the right to terminate the contract without penalty if majority ownership of your business changes by more than 30 percent. You are currently in early discussions with a private equity investor who would acquire 40 percent. The clause directly threatens the deal you are trying to close.



Complementary worksheet for
Contract Negotiation Tactics
by Ibrahim Anwar

SECTION 1

What This Is For

A change-of-control termination clause is inserted by contract partners who are concerned that a future owner might not honor the relationship, reduce service quality, or redirect the business away from their market. That concern is legitimate. The problem is that a 30% ownership threshold terminates the contract on almost any meaningful investment round — the typical PE or VC minority stake is 20-40%. The clause as drafted uses a mechanism that is far more protective than the partner's underlying concern requires, and it blocks your ability to raise capital without their explicit consent.

This worksheet maps the partner's real underlying concern against the range of alternative protections that address that concern without blocking capital-raising. A performance guarantee, a key-person continuity clause, or a 51% majority-change threshold all give the partner meaningful protection. None of them trigger on a 40% investment round. The negotiation goal is to replace a clause that addresses one concern (continuity) by solving a different problem (blocking capital) with a clause that addresses the concern directly.

SECTION 2

Benefits

What you get when you actually run this worksheet on a real situation:

- Separates the partner's stated position (termination right at 30%) from their underlying interest (continuity of service and credit relationship), opening more negotiating options.
- Calculates the annual contract value at risk if the clause is triggered — making the cost of leaving it unresolved explicit before the investment round closes.
- Maps three credible counter-proposals that protect the partner's continuity interest without blocking capital-raising above the 51% majority threshold.
- Identifies the cost of emergency renegotiation under time pressure versus proactive renegotiation before the investment process starts.
- Builds the specific clause language for the counter-proposal, so the conversation can move from concept to text in a single meeting.

SECTION 3

Framework To Use

Concern vs. Mechanism Analysis

The partner's concern is continuity. The mechanism they proposed (30% threshold termination) over-solves that concern while solving a different problem (blocking your capital). Map alternatives that address the concern without the over-reach.

Protection mechanism	Addresses partner's continuity concern?	Blocks your capital-raising?	Recommended?
30% threshold termination right (as drafted)	Yes — maximally	Yes — any meaningful round	No — over-reach
51% majority threshold (counter-proposal A)	Yes — protects against hostile takeover	No — typical PE/VC minority stake safe	Yes
New majority owner must affirm contract within 60 days (counter-proposal B)	Yes — continuity confirmed by incoming owner	No — affirm, not negotiate; incoming owner inherits	Yes
Performance bond or personal guarantee from current owner (counter-proposal C)	Yes — financial assurance independent of ownership structure	No — does not restrict capital-raising	Yes (if partner has financial concerns)
Convert termination to 60-day renegotiation right on control change (counter-proposal D)	Yes — partner has input if ownership changes	Partial — but avoids automatic termination	Acceptable if A and B both fail

SECTION 4

How To Use

Follow these steps in order. Each one builds on the previous.

1. Calculate the annual contract value at risk if the change-of-control clause is triggered. Multiply by the remaining contract term to get the total value at risk. That number determines how much time and concession is worth spending on this negotiation.
2. Write the exact clause language from the draft contract. Note the ownership percentage threshold, what event triggers it, the notice period required, and whether any compensation is owed on termination triggered by this clause.
3. Determine whether your planned investment round would trigger the clause as drafted. If 40% is being transferred to the PE investor and the threshold is 30%, the clause is triggered by the round closing.
4. Identify the partner's stated reason for the clause. Is it credit risk (they worry the incoming owner will not pay), service continuity (they worry the business will pivot away from their market), or control (they want approval over any future owner)? The reason determines which counter-proposal addresses their concern most directly.
5. Build three counter-proposals from the comparison matrix. Propose the one most likely to be accepted as the opening counter. Have the second and third ready if the first is rejected.
6. For each counter-proposal, write the specific clause language. Bring the text to the negotiation meeting — partners are more likely to accept a counter-proposal they can read and evaluate than one they have to draft themselves.
7. Calculate the cost of failing to resolve this before the investment round closes: delay cost in days, concession cost if renegotiation happens under time pressure, and the risk that the investor walks if the contract risk is unresolved.
8. Determine whether there is a proactive renegotiation option — approaching the partner before the investment process starts, when time pressure is symmetric and the conversation is not emergency-driven.

SECTION 5

Example Use

A logistics operator has a 3-year distribution license contract worth $240,000 per year with a major FMCG brand. The contract contains a change-of-control clause at 30% ownership threshold with immediate termination right. A PE firm is offering a 40% stake at a $1.2M valuation. The investment closes in 6 weeks.

Total contract value at risk: $240,000/year x 2.5 remaining years = $600,000. The investment amount is $480,000 (40% of $1.2M). The contract termination risk is 125% of the investment value. This is a material risk that must be resolved before closing.

The partner's stated reason from the negotiation: "We need to know our distributor is committed to our category. A new financial investor could redirect resources or change the priority focus." This is a continuity concern, not primarily a credit concern.

Counter-proposal A: raise the threshold from 30% to 51%. A 40% PE stake does not transfer majority control. The current owner retains 60%. The partner's continuity concern (who runs the business) is not materially affected. The counter-clause: "This clause shall apply only if majority ownership — defined as ownership of more than 51% of outstanding voting shares — is transferred to a party who was not a shareholder at the time this contract was signed."

Counter-proposal B (backup): "In the event of any ownership transfer exceeding 30% of outstanding voting shares, the incoming party shall confirm this contract in writing within 60 days of the transfer's completion, at which point this contract continues on its existing terms. If no written confirmation is provided within 60 days, either party may terminate with 60-day written notice."

The operator contacts the FMCG brand's contract manager two weeks before the investment closes. The conversation starts with the operator naming the partner's concern directly: "We understand the continuity concern. The incoming investor is taking a 40% minority position — the current management team and our operational focus are unchanged. We would like to address your continuity concern without a mechanism that blocks minority investment entirely."

Counter-proposal A is accepted at the second meeting, with the addition of a key-person clause naming the current operations director as the person whose continued role is material to the partner. The clause is amended before the investment round closes.

SECTION 6

The Worksheet

Tear this out, copy it onto a fresh sheet, or fill it in directly.

Key Partner Demands Change-of-Control Termination Right

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ITEM	CURRENT DRAFT POSITION	YOUR COUNTER-PROPOSAL	JUSTIFICATION
Change-of-control threshold in draft (%)			
Planned ownership transfer in the investment round (%)			
Does planned transfer trigger the clause? (Y/N)			
Annual contract value at risk if clause is triggered ($)			
Partner's stated reason for the clause			
Alternative protection you can offer: performance guarantee? financial covenant?			
Counter A: raise threshold to 51% or require new majority owner to affirm contract			
Counter B: convert termination right to renegotiation right within 60 days of change			
Counter C: retain clause but cap severance compensation at 3 months of contract value			
Consequence of failing to resolve before investment round closes ($ / process risk)			

Reflection Prompts

After filling in the worksheet on the previous page, work through these.

1. The partner's real concern is continuity of service and credit relationship if ownership changes to an unknown entity. Address that concern directly rather than fighting the clause: what specific assurance can you offer — personal guarantee, performance bond, key-person continuity clause — that makes the 30% change-of-control threshold unnecessary? Name the specific mechanism, not the general category.

2. If the clause cannot be removed: a 30% threshold will be triggered by almost any meaningful investment round. A 51% threshold or a 'new majority owner must affirm the contract within 60 days' mechanism gives the partner protection against a true hostile takeover without blocking minority investment. Write the exact counter-clause language here — not a description of it, but the text that would replace the current clause.

3. If this contract is already signed and you are now inside the investment process: calculate what emergency renegotiation under six weeks of time pressure will cost in concessions, delays, and investor confidence. Then calculate what a proactive renegotiation 12 months earlier would have cost. The difference is the price of not having a contract review system that flags change-of-control clauses before an investment process starts.

SECTION 7

Tips and Traps

TIPS

- Address the partner's underlying concern, not their stated position. If the concern is continuity of the business relationship and the quality of service, a performance guarantee or key-person clause addresses that concern more directly than a threshold debate. The partner who accepts a key-person clause has been given what they actually needed — they just asked for it in the wrong mechanism.
- Start the renegotiation conversation with the contract value at risk, not with a legal argument about the threshold. '$600,000 in contract value is at risk from a clause that was not designed with a minority investment round in mind — let's resolve that together' is a more productive opening than 'we believe this clause is unreasonable.'
- Bring the amended clause language to the meeting, not just the concept. A partner reviewing a specific counter-clause in writing can respond to it. A partner hearing a description of a concept must draft a response — which takes more time and more meetings.
- If the partner has legal counsel involved: propose a meeting with legal counsel from both sides present. Lawyers resolving a clause change between themselves is faster than a business manager proposing changes to a lawyer who then needs to take them back to their client.

TRAPS

- Treating the change-of-control clause as a separate negotiation from the investment process. These two transactions share a timeline. If the contract risk is unresolved when the investment closes, the investor inherits the risk — and they will either require a price reduction or exit the deal. Both outcomes are worse than resolving the clause before the round closes.
- Raising the threshold from 30% to 51% without also defining what 'majority ownership' means in the clause. If the contract uses voting shares but the investment is in convertible notes or preference shares with future conversion rights, the threshold may be triggered at conversion even if not at issuance. Legal counsel needs to check the interaction between the clause definition and the investment structure.
- Agreeing verbally to a threshold change without a signed addendum before the investment closes. A verbal agreement to change the threshold is not a contract amendment. The investment closing with an unexecuted verbal agreement leaves the contract in its original form — with the original 30% threshold still enforceable.

SECTION 8

Appendixes

Appendix A — Change-of-Control Counter-Clause Language (Three Variants)

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VARIANT A — Majority threshold (replaces 30% with 51%):
"This clause shall apply only upon the transfer of majority
ownership, defined as the ownership or effective control of
more than 51% (fifty-one percent) of voting shares or
equivalent controlling interest in [Your Business], to a party
or parties who were not shareholders of record at the date this
contract was signed. A transfer of ownership not exceeding 51%
does not trigger this clause."

VARIANT B — Affirmation mechanism (addresses continuity
without blocking minority investment):
"In the event of any transfer of ownership exceeding 30% of
outstanding voting shares to a party not previously a
shareholder of [Your Business], the transferee shall confirm
this contract in writing to [Partner] within 60 (sixty)
calendar days of the transfer's completion. Upon receipt of
written confirmation, this contract continues on its existing
terms and conditions without modification. If no written
confirmation is provided within 60 days, either party may
terminate this contract by providing 60 days' written notice."

VARIANT C — Renegotiation right in lieu of termination right:
"In the event that this change-of-control clause is triggered,
[Partner] shall have the right to request a renegotiation of
contract terms within 30 days of receiving written notice of
the ownership change. The parties shall negotiate in good faith
for a period of 60 days. If agreement is not reached within 60
days of the renegotiation request, either party may terminate
this contract by providing 30 days' written notice. In no case
shall automatic termination occur without the good-faith
negotiation process described above."

Usage guidance:
- Variant A for partners whose concern is management continuity
  (minority investor does not change who runs the business).
- Variant B for partners whose concern is legal commitment from
  the incoming owner (they get written confirmation).
- Variant C as last resort when the partner insists on the 30%
  threshold but can be persuaded to accept a renegotiation
  process rather than automatic termination.
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WHERE THIS WORKSHEET COMES FROM

Contract Negotiation Tactics

A Clear Contract Is a Healthy Relationship

by Ibrahim Anwar

This worksheet is one of nine in the *Contract Negotiation Tactics* companion worksheet pack. The full pack is grouped into three categories: high-volume worksheets you can run weekly, niche-search worksheets for rare but high-value situations, and specific-case worksheets that walk you through a single concrete scenario.

Every framework, decision filter, and figure used in these worksheets is drawn from the chapters of the source book. The book sets the diagnosis, the worksheets give you the form to act on it.

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