

Due Diligence Checklist for M&A

Legal Due Diligence Checklist

Corporate Organization

- Organizational chart portraying the corporate structure of the target, subsidiaries, and affiliates.
- A comprehensive list of all jurisdictions in which the target company is authorized to conduct business.
- Agreements such as joint ventures, partnerships, and other arrangements that involve the sharing of profits or technology.
- Information pertaining to meetings held by the board, shareholders, and members of the target company.
- Documentation outlining the governance structure of the target company, including Articles of Incorporation, Articles of Organization, Bylaws, Operating/LLC Agreements, Articles of Association, and similar materials for its subsidiaries and affiliates.
- Contracts relating to material acquisitions, equity divestitures, or assets.

Management

- All related party transactions, including review/approval procedures applicable thereto.
- Biographical information for each member of the board of directors.
- Biographical information for each team member and other crucial employees.

Capital Structure

- A report detailing the total count of shares outstanding.
- Records providing evidence for each issuance of private equity.
- A summary of any warrants, convertible notes, or other entitlements that grant the holder the right to obtain equity.
- Copies of all existing debt instruments.
- Information pertaining to meetings held by the board, shareholders, and members of the target company.
- An inventory of shares owned by each shareholder for the target company, its branches, and affiliates.

Legal

- Summary of material litigation.
- Summary of permits, licenses, and other authorizations including any required export control licenses
- Copies of material contracts that are terminable upon a change of control or other corporate transaction.
- Copies of agreements or instruments that place restrictions or encumbrances on assets.
- Contracts that restrict the target's right to conduct its business.
- Contracts with obligations such as covenants and indemnification.
- Indemnification agreements between the target and any officers, directors or agents thereof.
- Summary of the target's compliance program and copies of all policies, procedures and other related documentation.
- Confirm officers, or significant shareholders is subject to any of the Bad Actor disqualifications.
- Confirm that the firm is not restricted from doing business under OFAC regulations or similar.
- Confirm whether the target has any direct or indirect presence and/or other engagements.
- Summary of regulations applicable and/or its business, and anticipated changes.
- Copies of any letters with any regulatory agencies or authorities.
- Summary of product recalls conducted and all material warranty claims brought.

Real Estate

- An inventory of all the properties, developments, offices, warehouses, or other facilities operated or maintained by the target company, including their respective addresses and descriptions.
- A summary of deeds pertaining to all the real estate that the company owns, along with copies of all relevant title papers, title insurance policies, appraisals, and surveys.
- Copies of lease agreements and contracts related to the acquisition or sale of real property.

Commercial Due Diligence Checklist

Suppliers

- List of the top 15 suppliers for each of the past 3 years.
- Summary of the policies and procedures produced when evaluating and onboarding any new supplier or contractor.
- Contracts with material suppliers and subcontractors.

Marketing

- Copies of any strategic, advertising, or marketing plans formulated for the target company.
- Product descriptions for all the significant products and product lines.
- A brief overview of forthcoming new products and/or product enhancements.
- An overview of all ongoing RD projects, including an estimated timeline for their completion.
- Copies of all advertising, marketing, sales, and presentation materials, such as brochures and sales sheets.
- A summary of all marketing risks and opportunities.

Commercial Policies

- Copies of policies and procedures related to pricing, credits, returns, warranty claims, etc.

Customers

- An inventory of the 25 largest customers over the previous three years, along with their revenue.
- A list of customers that have ceased doing business with the company.
- A record of all significant sales channel partners for the past three years, along with their revenue.
- A breakdown of sales and gross profits by product type, geography, and sales channel.
- Copies of all significant customer contracts.
- Copies of all significant contracts that have terms longer than one year.
- Copies of all contracts with significant sales channel partners, as well as duplicates of all contracts with government clients.



Financial Due Diligence Checklist

Accounting

- Fiscal reports for the target and its branches.
- An account of any off-balance sheet items, financial position statements, liabilities, or commitments of any kind.
- A timetable of any conditional obligations that were not revealed or alluded to in the fiscal reports.
- A detailed timetable of all pre-paid expenditures and deposits components.
- Duplicates of all letters concerning the target's bookkeeping procedures, including all Letters of Management Representation.
- Key bookkeeping policies necessary for understanding the fiscal reports.

Accounting (Cont.)

- Significant changes to bookkeeping policies implemented.
- Unaudited fiscal reports.
- Financial plans, operating budgets, and financial projections created.

Finance

- Summary of any cash management controls and practices. Investment policies.
- Debts, agreements or arrangements that are expected to result in a loss to the target.
- Hedging policies, including copies of related contracts or instruments.
- Current listing of standby letters of credit, performance bonds, performance guarantees.
- Report reflecting all aged accounts receivable trial balances for target.
- Copies of recent bank reconciliations and bank statements.
- Summary of the target's inventory costing system and other procedures and policies related to inventory.

Operations

- Overview of significant capital expenditure projects undertaken by the target.
- Asset register and/or copy of latest physical inventory of equipment and assets.
- Summary of planned capital expenditures for the next 12 months, including anticipated costs and timelines.
- Schedule of equipment split by capital vs. operating lease.

Insurance

- Summary of all current insurance coverages and copies of all policy documents related thereto.
- Summary of claims made against any insurance policy.

Human Resources (HR) Due Diligence Checklist

Human Resources Agreements

- Provide copies of all employment and severance agreements and indicate which ones will be affected by the transaction.
- Provide copies of all consulting agreements and any agreements relating to compensation arrangements.
- Provide collective bargaining agreements, non-competition agreements, nondisclosure agreements or similar agreements.
- Provide a summary of any current recruitment initiatives, including any financial commitments related thereto.

Benefits

- Summary of all employee benefits offered by the target, along with a copy of the compensation policy.
- Summary of the incentive stock option plans in place.
- Details of any bonus or profit-sharing schemes and the beneficiaries or participants involved.
- Summary of outstanding stock option awards and copies of any award documents.
- Copies of the plan documents for all benefit plans.
- List and summary of all pension plans available to employees.

General HR

- Overview of any legal actions initiated by current or past employees against the target.
- Information on any disciplinary actions taken or grievances filed by employees.
- Explanation of any court orders or employment tribunal verdicts related to employee disputes that are currently in effect.
- Summary of any investigations or legal proceedings related to employment issues.

General HR (Cont.)

- Breakdown of employee headcount by job function and location.
- List of suspended employees and the reasons for their suspension, along with any associated salary implications.
- Employee roster, including job titles and responsibilities.
- Summary of absences due to illness, disability, or other reasons.
- Schedule of employees who are covered by disability legislation.

HR Policies

- Copies of all employee manuals and policies.
- Target's hiring practices and policies, including the use of background checks, and checks of immigration status.
- Summary of any changes.
- Schedule of any loans and all sums owed.

Intellectual Property Due Diligence Checklist

Intellectual Property Registrations

- Summary of the registered trademarks and patents held by the target company.
- Schedule of all owned websites and domains.

Intellectual Property Contracts

- Agreements granting the target the right to use intellectual property (IP) owned by third parties.
- Summary of any IP that is not solely owned by the target company.
- Agreements granting third parties the right to use IP owned by the target.

Intellectual Property Litigation

- Summary of any past or current instances where any third party actually or allegedly infringed on the target's IP.
- Summary of all IP litigation in which the Target is or has been involved.
- Summary of any restrictions to which IP assets of the target are subject.

Intellectual Property Development

- Summary of process for generating, developing, recognizing, capturing, and protecting IP assets.

Information Technology Due Diligence Checklist

IT Administration

- Details of the target's current and planned IT projects and initiatives.
- Overview of the key IT resources, including hardware, software, and personnel.
- Policies and practices related to software purchase and maintenance.
- Summary of all material software utilized by the target.
- Policies and practices related to IT hardware purchase and maintenance.
- List of all material hardware utilized by the target, including their physical locations.
- Diagram of technical architecture including servers, storage devices, operating systems and databases.
- Description of networking systems and specific hardware configurations.
- Summary of any vendor support or other support services available to the target.
- Annual costs associated with IT hardware maintenance, upgrades, and replacements.
- Material contracts related to software and IT services.
- Summary of services provided by external IT contractors and consultants.
- Assessment of the target's current IT environment capacity for growth.
- Summary of how the target acquired technology and the role of IT/technology in strategic planning.
- Effectiveness and approach of the target's support/help desk.
- Summary of automation and web or internet facing applications used by the target.

IT Security

- Detailed summary of the key security protocols.
- Description of backups and disaster recovery policies and procedures.
- Detailed description of data privacy policies and procedures.
- Summary of all personal and/or sensitive information.

IT Security (Cont.)

- Target's policies and procedures regarding data storage and data encryption.
- Summary of any issues, including loss of confidential information, inappropriate or malicious content, etc.
- Results of stress test analysis, including the resolution of any issues identified.
- Details about monitoring measures/tests to ensure technical safeguards are working as expected.
- Summary of any logged security issues.
- Summary of any anti-virus and anti-malware protections.
- Policies and procedures utilized by the target to manage mobile device security.
- Description of any cyber attacks/intrusions.

Environmental, Health and Safety (EH&S) Due Diligence Checklist

Environmental

- All environmental investigations, citations, or notices of violation.
- All litigation in which the target has been involved/related to environmental matters.
- Information related to past or present enforcement actions against any premises owned by the target.
- Details of the generation, treatment, storage and disposal of hazardous substances.
- Summary of any significant financial losses incurred due to environmental matters.
- Copies of environmental studies, assessments and surveys in respect of land.
- Summary of all dedicated reserves for management of environmental liabilities.
- Copies of any significant correspondence with environmental regulatory agencies.
- Results of all environmental audits conducted.
- Risks associated with the treatment or disposal of materials, liquids, or gases used by the target.
- Copies of permits and other governmental approvals relating to environmental matters.
- Description of any ground or underground storage tanks currently in use or previously used by the target.

Health & Safety

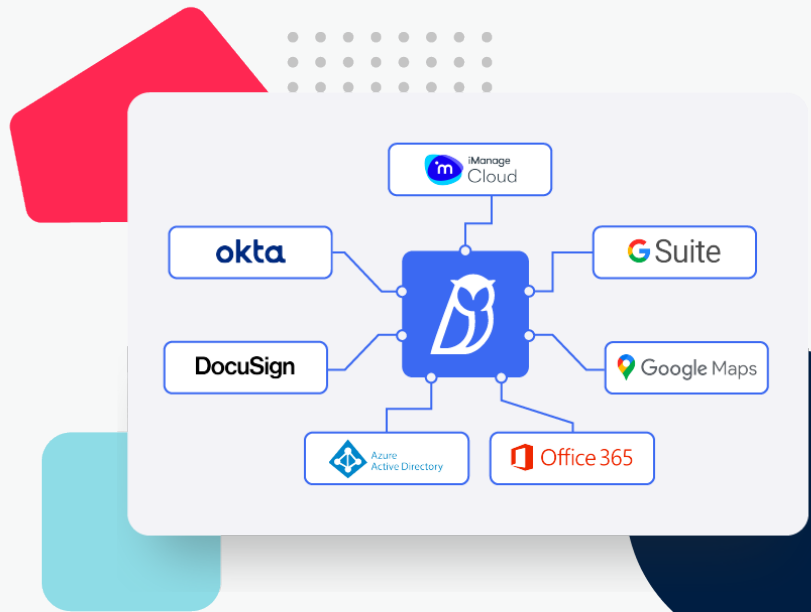
- Summary of all investigations, citations, or notices of violation related to employee health and human services.
- Summary of emergency response policies and procedures for employee health and safety incidents.
- Summary of all current or past litigation brought against the target by any current or former employee.
- Results of all health and safety audits, including the resolution of any findings.
- Summary of any workplace accidents that occurred within the last 5 years.
- Summary of all workers' compensation and health care policies and procedures.
- Copies of all material safety data sheets for materials used by the target.



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