



Due Diligence Checklist

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A. Introductory Comments

Simply put, Due Diligence is a prerequisite to any major financial transactions such as mergers, acquisitions, equity investments and debt investments. It is performed to bring out the assets and liabilities of a company, and also to assess its commercial potential. Due Diligence is a highly complex process that requires a great deal of knowledge.

For your understanding and benefit, a detailed sample M&A Due Diligence checklist has been prepared by EM&AA and DEALGATE. The checklist has been tailor made for the acquirer in a benchmark M&A process. What makes this checklist so reliable and versatile is the fact that it can also be highly useful for investors, advisors and business owners of various fields.

In this checklist you will find a basic catalogue of items and documents that buyers and investors should take into account and investigate. Not every question in the checklist is relevant or mandatory for an acquisition or investment process. The guide is not exhaustive, and you are recommended to add questions specific to your industry.

B. Company Overview

B.1 General information

- B.1.1 Company name
- B.1.2 Employee count
- B.1.3 Company domicile
- B.1.4 Year established
- B.1.5 Legal structure
- B.1.6 Locations
- B.1.7 Auditors

B.2 Articles of incorporation and amendments thereto (within the last three years)

B.3 Commercial register entries

B.4 Documents relating to restructurings during the past three years

B.5 Participations

- B.5.1 Subsidiaries
- B.5.2 Equity interests

B.6 Rules of procedure Supervisory Board / Executive Board rules of procedure

B.7 Annual General Meeting minutes (previous three years)

B.8 Annual reports (previous three years)

B.9 Supervisory Board meetings minutes (previous three years)

B.10 Executive Board meetings minutes (previous three years)

B.11 Supervisory Board member contracts (terms and compensation)

B.12 Shareholders' agreements, including voting, transfer or put or call agreements

B.13 Organizational charts

B.13.1 Names

B.13.2 Functions

B.13.3 Responsibilities

B.14 Ownership structure; share register; share depository

B.15 Overview share capital approved, conditional, own shares, unpaid equity

B.16 Shares / share certificates

B.17 Major share transactions in the shares of the company to be sold during the past five years

B.18 Capital transactions (recapitalizations, capital reductions) during the past five years

B.19 Third party rights to shares (rights to buy, pre-emption rights, pledges)

B.20 Contracts among the shareholders and contracts between the shareholders and the company

B.21 Particulars as to the authorized and issued share capital, outstanding debt securities, convertible securities, options, warrants or preemptive rights

C. Business Description

C.1 Overview

C.1.1 Industry segments

C.1.2 Size of the business

C.2 Basic strategy

C.2.1 Goals

C.2.2 Feasibility

C.2.3 Action plans

C.3 Company prospectus

C.4 Product brochures

C.5 Product descriptions

C.5.1 Prices

C.5.2 Quality

C.5.3 Service

C.5.4 Market share

C.5.5 Warranties

C.5.6 Cost structure and profitability

C.5.7 Overview of backlog in each product line

C.6 Research work relating to the strategy of the company commissioned by the firm

D. Marketing and Sales

D.1 Analyses (industry, competition, client groups)

D.2 Brand positioning

D.3 Brand strategies

D.4 Marketing strategy

D.4.1 Summary

D.4.2 Goals

D.4.3 Product strategy (goals for each product/service: prices, sales, contribution margin)

D.4.4 Market strategy (goals for each product/service: prices, sales, contribution margin)

D.5 Marketing activities (promotion campaigns for each product)

D.6 Press releases of the last three years

D.7 Marketing expenditures

D.8 Monthly sales volume and revenue (last three years per client, per product, per region)

D.9 Incoming orders per month (last three years per client, per product, per region)

D.10 Monthly order volume (last three years per client, per product, per region)

D.11 Monthly margin analyses (last three years per client, per product, per region)

D.12 Further analyses of product sales

D.13 Sales strategies

D.14 Prices and terms and conditions

D.15 Sales organization

D.16 Promotional activities

D.17 Public Relations

D.18 Advertising

D.19 Company image

D.20 Client base

D.20.1 Segments

D.20.2 List of the top 20 customers

D.20.3 ABC analysis, behavior

D.21 Customer satisfaction

D.22 Distribution (regions, methods, customer retention)

D.23 Planned new product launches

D.24 Market and product studies

D.25 Samples of customer agreements

D.26 Schedule of loans to customers

E. Human Resources

E.1 Organizational chart

E.2 Management

E.2.1 Number of management levels / hierarchical layers

E.2.2 Planning and decision making processes

E.2.3 Succession planning

E.2.4 Rules to rights of representative

E.2.5 Communications processes

E.2.6 Biographies of each member of the current Executive Team and Board of Directors

E.3 List of management personnel

E.4 Description of manager's functions

E.5 Employment contracts

E.6 Standard employment contract

E.7 Special agreements with employees (non-competition clauses, consultancy contracts, exceptional items, salary increases, compensation for inventions, profit sharing, rights to options)

E.8 Organization manual

E.9 General employment terms and regulations

E.10 Travel expenses and other regulations

E.11 Employee incentives schemes (bonuses, company cars, stock option plans)

E.12 Qualifications and performance-measurement systems

E.13 Employee demographics containing information on salary, year of entry, age, function and location

E.14 List of all independent salespersons, licensees, representatives and brokers and their compensation plans, including any incentive compensation payable

- E.15 Documentation regarding outstanding or anticipated claims, proceedings, prosecutions or obligations regarding wrongful dismissal, employment standards, labor relations, occupational health and safety, human rights, pay and employment equity, workers' compensation or any other employment-related matters**
- E.16 Information and documentation regarding any pending resignations of employees or terminations of employment in the past three years**
- E.17 Information and documentation regarding all restrictive covenants such as non-competition, non-solicitation and confidentiality agreements affecting the Corporations or employees or contractors of the Corporations**
- E.18 Evaluation of HR statistics such as age, wage, fluctuation and absences**
- E.19 Collective labor agreements**
- E.20 Documentation of labor disputes over the last 5 years**
- E.21 Trade union activities**
- E.22 Communication with trade unions**
- E.23 Redundancy programs**
- E.24 Summary of available life, health, and personal accident insurance policies**
- E.25 List containing individual holiday entitlements and overtime eligibility**
- E.26 Miscellaneous (time sheet, work permits)**
- E.27 Pension fund**
 - E.27.1 Regulation of pension plan and further information on the retirement fund; statutes
 - E.27.2 Information and documents for sponsorship and company pension plan
 - E.27.3 Contracts concerning pension plan
 - E.27.4 Latest audit report of the pension funds, expert opinions, financing, (under) funding, loans granted
 - E.27.5 In case of additional pension schemes: audit report, eligibility details
 - E.27.6 Miscellaneous

F. Financials

- F.1 Accounting principles**
- F.2 Valuation principles**
- F.3 Description and financial impact of changes in the accounting principles during the last three years**
- F.4 Group manual**
- F.5 Table of accounts**
- F.6 Auditor's reports (last three years: group and individual reports)**
- F.7 Management letters (last three years)**
- F.8 Relevant correspondence with auditors (last three years)**
- F.9 Annual reports (Group and individual reports; last three years)**
- F.10 Latest audited interim report (group and individual reports)**
- F.11 Internal audit reports (last three years)**
- F.12 Internal accounts und financial ratio analysis (group and individual reports) incl. management comments (last three years)**
- F.13 Transformation external to internal accounts (last three years)**
- F.14 Budgets, incl. variance analysis actual vs. prior year actual (last three years)**
- F.15 Budget / forecast of current / next year; comparison actual vs. prior year actual**
- F.16 Financial planning / medium term planning**
- F.17 Details of cash positions (the account list includes the following positions: bank, cash, checking account as of end of financial year, and as of the interim (half-year) report)**

F.18 Accounts receivable (as of end of financial year and as of the interim (half-year) report)

F.18.1 Development of accounts receivable / losses / provision / aging

F.18.2 List of open positions in the accounts receivable

F.18.3 Age analysis of accounts receivable (year-on-year comparison of each position)

F.18.4 Description of del credere provisions

F.18.5 Losses on accounts receivables

F.18.6 List of intercompany accounts receivable

F.19 Other accounts receivables (e.g. social security, health insurance, pension funds, advance payments to employees)**F.20 Advance payments****F.21 Particulars as to original capital cost, undepreciated capital cost, age and location, depreciation reserve and depreciation rates used****F.22 Expenses (as of end of financial year and as of the interim (half-year) report)****F.23 Marketable securities****F.24 Inventory (merchandise, goods for sale, finished goods, semi-finished goods, work in progress, raw materials)**

F.24.1 Change in inventory / inventory turnover / other inventory key figures

F.24.2 Detailed listing of product groups, stocks, valuation

F.24.3 Valuation concept and calculation of value adjustments

F.24.4 Documentation of annual stock taking (incl. corrections to the inventory due to discrepancies)

F.24.5 Clearance of stocks through disposal (number and value)

F.24.6 List of all product stock keeping units

F.25 Fixed assets

F.25.1 Detailed register

F.25.2 Fixed assets movement schedule

F.25.3 Method of depreciation

F.25.4 List of fixed assets, rented, leased, or used otherwise, that do not appear in the movement schedule

F.26 Intangible assets (patents, goodwill, brands, models, ...)

F.26.1 Detailed register

F.26.2 Fixed assets movement schedule

F.26.3 Method of depreciation

F.26.4 List of fixed assets, rented, leased, or used otherwise, that do not appear in the movement schedule

F.27 Financial assets (equity interests, loans, ...)

F.27.1 Detailed register

F.27.2 Description of the investments

F.27.3 Annual accounts of investments, information about the solvency of borrowers

F.27.4 Valuation

F.28 Loans to employees, managers, shareholders, affiliated companies

F.28.1 Detailed listing

F.28.2 Solvency status of borrower

F.29 Accounts payable

F.29.1 Changes in accounts payable / aging

F.29.2 List of open positions in the accounts payable

F.29.3 Age analysis of accounts payable (year-on-year comparison of each position)

F.29.4 Listing of intercompany payables

F.30 Other liabilities**F.31 Deferred income****F.32 Short-term bank debt****F.33 Advance payments by customers****F.34 Provisions (incl. taxes, law suits)****F.35 Long-term loans**

F.35.1 Amount

F.35.2 Interest rates

F.35.3 Terms of contract

F.36 Equity capital

F.36.1 Composition of equity

F.36.2 Types, approved, conditional, voting rights, dividends, hidden reserves

F.37 Off-balance sheet items

F.37.1 Guarantees

F.37.2 Pledges

F.37.3 Solidary debt

F.37.4 Commitments arising from letters of comfort

F.37.5 Declaration of subordination and conditional remission of debt

F.37.6 Liabilities in case of release of covenant

F.37.7 Commitments from lease agreements not listed in the balance sheet

F.37.8 Foreign exchange: hedging, commitments, practices

F.37.9 Forward transactions, option contracts, futures contracts, swaps

F.38 Expert opinions on the value of the fixed assets**F.39 List of all extraordinary earnings and expenses (last three years)**

- F.40** **Compilation of expenses associated with corporate restructurings, one-time profits / losses (last three years)**
- F.41** **Cash planning and Cash Flow (last three years)**
- F.42** **Cost accounting (Unit costing and "cost center" method)**
- F.43** **Pre calculation and post calculation per product category**
- F.44** **Volume of order backlog for each product category**
- F.45** **Investment appraisal (next three years)**
- F.46** **Projects aimed at enhancing profitability (revenue, contribution margin, costs)**
- F.47** **Credit and loan agreements**
 - F.47.1 Lender
 - F.47.2 Date signed
 - F.47.3 Amount
 - F.47.4 Interest
 - F.47.5 Value in domestic currency
 - F.47.6 Repayment
 - F.47.7 Due dates
 - F.47.8 Current terms
- F.48** **List of all bank accounts incl. information on access authorization and credit lines**
- F.49** **List of all securities issued by the firm (options, bonds, debentures, ...)**
- F.50** **List of all guarantees granted**
- F.51** **Capitalized leasing**

G. Taxes

- G.1 Copies of the income tax return declarations (last six years)**
- G.2 Tax assessment notices in relation to the income tax returns**
- G.3 Annual accounts that served as a tax base for the tax returns**
- G.4 Agreements and the documents thereof relating to the terms and the completion of intercompany transactions**
- G.5 Social security annual statements (last three years)**
- G.6 Correspondence with, minutes of negotiations with and rulings of the tax authorities**
- G.7 Governmental Audit Reports**
 - G.7.1 Social security
 - G.7.2 Corporate tax
 - G.7.3 VAT
- G.8 VAT statements (last five years)**
- G.9 List of declarations of exports (last five years)**
- G.10 Documents concerning any sales to personnel (last five years)**
- G.11 Management fees, licensing fees and compensation for know-how transfer charged to affiliated companies**
- G.12 Schedule of all tax return statute of limitation extensions**

H. Operations

H.1 Plants

- H.1.1 Address, description, size, date of construction
- H.1.2 Organization
- H.1.3 Space allocation (production, warehouse, offices, ...)
- H.1.4 Leased / purchased, purchase price, book value, market value, remaining service / economic life
- H.1.5 Alternative uses
- H.1.6 Technical description of all plants and machinery
- H.1.7 Plans for new production equipment

H.2 Production planning

- H.2.1 Cycle times of products
- H.2.2 Timeliness of the delivery
- H.2.3 Capacity and capacity utilization of each plant
- H.2.4 Analysis of the production processes
 - H.2.4.1 *Description of the production processes, type of production process (mass production, process industry, assembly line, ...)*
 - H.2.4.2 *List of major production materials*
 - H.2.4.3 *Potential for productivity increases*
 - H.2.4.4 *Benchmarking vis-à-vis the firm's competitors*
 - H.2.4.5 *Vertical range of manufacture*
 - H.2.4.6 *Down time*
 - H.2.4.7 *Scrap rate*
 - H.2.4.8 *Repair time*

H.3 Supply concept / materials management

- H.3.1 Description of the sourcing process
- H.3.2 Description of the sourced product categories (in terms of availability)
- H.3.3 Procurement volumes by categories
- H.3.4 ABC - analysis of purchased goods/items
- H.3.5 Analysis of stocks and warehouses
- H.3.6 Warehouse capacity
- H.3.7 Structure of suppliers (number, volume, delivery times, ABC analysis)
- H.3.8 Each supplier at a glance (name, location, terms and conditions, longevity, reliability)
- H.3.9 Make or buy analyses

H.4 Logistics (company names and terms of contracts)**H.5 IT**

- H.5.1 Electronic data processing concept, IT strategy
- H.5.2 Estimated capital requirements over the next three years
- H.5.3 Current IT projects
- H.5.4 Hardware (specification, date introduced, strengths/weaknesses)
- H.5.5 Software (specification, date introduced, strengths/weaknesses)
- H.5.6 Purchase/rental/leasing
- H.5.7 IT-budget
- H.5.8 IT-costs

H.6 Research & Development

- H.6.1 Current R&D-projects
- H.6.2 Completed R&D-projects
- H.6.3 Planned R&D-projects
- H.6.4 Description of the R&D infrastructure
- H.6.5 Description of R&D cooperation and alliances
- H.6.6 R&D expenditure, budget
- H.6.7 Average length of development projects

H.7 Quality management

- H.7.1 Quality Management handbook
- H.7.2 Organization
- H.7.3 Processes
- H.7.4 Certificates
- H.7.5 Which areas / functions are covered by the quality management program?
- H.7.6 Cost of error

I. Property

I.1 Excerpts from the land register

I.2 Land

- I.2.1 Location
- I.2.2 Description
- I.2.3 Size
- I.2.4 Date purchased
- I.2.5 Purchase price
- I.2.6 Current market value
- I.2.7 Building permits
- I.2.8 Lay-out plan
- I.2.9 Development costs
- I.2.10 Land charges
- I.2.11 Description of particularities of the legal planning situation (limitations of use, construction project)
- I.2.12 Copies of the building permits

I.3 Buildings

- I.3.1 Location
- I.3.2 Description
- I.3.3 Total area, built-up area, used area, land reserves (operating/non-operating in m2)
- I.3.4 Date purchased
- I.3.5 Purchase price
- I.3.6 Current market value
- I.3.7 Building permits
- I.3.8 Lay-out plan

- I.3.9 Assessment of the building infrastructure
- I.3.10 Maintenance costs
- I.3.11 Refurbishment costs
- I.3.12 Development cost
- I.3.13 Land charges
- I.3.14 Description of particularities of the legal planning situation (limitations of use, construction project)
- I.3.15 Copies of the building permits

I.4 Tenancy agreements and lease contracts (let / rent)

I.5 Fair value estimation

I.6 List of purchases and sales (last five years)

I.7 Schedule of all agreements to purchase or sell property at a future date

I.8 Document concerning rent-related disputes (last five years)

I.9 Construction right contract

I.10 Particulars of all locations where property owned or leased by the Corporation is situated, including municipal addresses and legal descriptions

I.11 Copies of registered and unregistered encumbrances and liens against the property

I.12 Copies or details of any options, contracts of sale, easements, rights of way, adverse possession, executions or other rights or entitlements affecting property owned or leased by the Corporation

I.13 Copies of maintenance, service and operating contracts

I.14 Agreements with local municipalities or other service providers relating to the provision of services to the property, including power, electricity and gas, water, sanitary and storm sewer, telephone, life safety

J. Legal

- J.1 List of regulations and statutes to which company is subject**
- J.2 Loan guarantees**
- J.3 Letters of comfort**
- J.4 Subordination statements**
- J.5 Debt forgiveness**
- J.6 Joint and several liability / debt**
- J.7 Loan and credit agreements**
- J.8 Guarantee contracts**
- J.9 Sale-and-lease-back-agreements, financial leasing, instalment contracts**
- J.10 All contracts / draft contracts concerning intended acquisitions**
- J.11 Contracts with important clients**
- J.12 Contracts with important suppliers**
- J.13 Contracts relating to co-operations, joint ventures, co-ownership and partnership agreements**
- J.14 Copies of all certificates of compliance or non-default given by the Corporation to any of its creditors in connection with its outstanding debt in the preceding three-year period**
- J.15 Exclusivity agreements, cooperation agreements**
- J.16 Syndicate contracts**
- J.17 Standard contracts**
- J.18 Tenancy and leasing contracts (excl. property)**
- J.19 Hire-purchase agreements**
- J.20 License agreements**
- J.21 Cooperation agreements, R&D agreements and all other agreements relating to industrial property rights**

- J.22** **Consultancy contracts (e.g. advertising agencies, internet- and all other agencies and consultants)**
- J.23** **Service contracts**
- J.24** **Freelance contracts**
- J.25** **Outsourcing contracts with third-party service providers (incl. security, cleaning, catering, HR)**
- J.26** **Representation contracts**
- J.27** **Factoring agreements**
- J.28** **Profit transfer agreements**
- J.29** **Contracts / agreements with logistics companies**
- J.30** **IT - contracts (hardware, software, servicing and maintenance)**
- J.31** **Intercompany agreements (on provision of in-house services, management fees, know-how performance, ...)**
- J.32** **Various contracts**
- J.33** **Filings by the firm for composition or bankruptcy proceedings**
- J.34** **Terms and conditions (for sale and delivery)**
- J.35** **General purchasing conditions**
- J.36** **Any existing or potential merger law related clarifications, inquiries**
- J.37** **List of disputed claims or liabilities worth more than [amount] (such as pending or imminent law suits and arbitration procedures)**
- J.38** **Documents relating to pending or imminent law suits, arbitration procedures**
- J.39** **List of all authorized officers and representatives with their representation warrant**
- J.40** **List of all authorized persons, who are not employees representatives**
- J.41** **Signature regulations**
- J.42** **Organization of legal department**

- J.43 List of lawyers commissioned by the company (last three years)**
- J.44 List of all claims and pending litigation involving the patents, trademarks and other intellectual property of a Corporation or alleged infringements by a Corporation of the patents, trademarks or other intellectual property of others as well as any such claims made in the past five years**
- J.45 Copies of opinions regarding the validity or infringement of third party patents and, in circumstances where the advice of counsel was sought on such issues but written opinions were not produced, copies of any correspondence, notes or memoranda recording the advice which was sought and the advice which was given**

K. Intellectual Property

- K.1 Registered trademarks**
- K.2 Patents**
- K.3 List of all samples and models**
- K.4 Other items belonging to intangible assets (by type)**
- K.5 List of all patent agents commissioned by the company**
- K.6 Correspondence relating to the breach of intellectual property rights**
- K.7 Information about registered Internet domain names**
- K.8 Receipts confirming payment of patent fees**
- K.9 Licensing agreements**
- K.10 Cooperation agreement, R&D contracts and other agreements concerning industrial property rights**
- K.11 Governmental Licenses and Approvals**
- K.12 Governmental orders and approvals concerning the firm's operations**
- K.13 Withdrawn or suspended governmental orders and approvals**
- K.14 Grants**
- K.15 Declarations, petitions and complaints filed with governmental agencies (last five years)**
- K.16 Certificate of the company or its products (copy of certificate and records)**
- K.17 List of state subsidies (e.g. tax breaks) applied for and/or received within the last five years**
- K.18 Insurance contracts (excl. Pension Funds)**
- K.19 Overview / summary of existing insurance policies**
- K.20 Key statistics on premium and incidents (last five years)**
- K.21 Major incidents in excess of [amount] (last five years)**

L. Environmental Protection

L.1 Environmental studies on land contamination, waste disposal, disruptions

L.1.1 Environmental compatibility

L.1.2 Environmental issues of concern (e.g. contaminated soil, toxic waste, ...)

L.1.3 Transcripts of correspondence with government agencies with respect to environmental protection

L.2 Excerpts from the contaminated land register

L.3 Environmental legislation and environmental compliance (violations, court rulings, correspondence)

L.4 Pending injunctions and conditions

L.5 Resolved environment problems (last ten years)

L.6 Latent yet unexamined environmental risks

L.7 Safety precautions and safety management concept

L.8 Environmental management system

L.9 Public perception of the company with regard to the environment

L.10 Environmental protection investment (past and planned)

L.11 List of all substances used in the business operations and the corresponding safety precautions

L.12 All environmental assessments, studies or audits conducted or commissioned by or in the possession of the Corporations

M. About The Authors

M.1 About EM&AA

EM&AA (www.emaa.eu) is the official, independent and non-profit European Mergers & Acquisitions Association. This association was conceived and initiated by M&A professionals. EM&AA covers all the activities that revolve around merger and acquisition.

We promote the M&A industry by hosting conferences and events, presenting awards to the achievers in this field and releasing publications pertaining to mergers & acquisitions. The EM&AA is also involved with providing M&A news, employment opportunities and networking facilities.

M.2 About DEALGATE

DEALGATE (www.dealgate.com) is the global deal matching platform. We provide a closed and secure environment where our members exchange divestment and acquisition profiles, as well as enterprise financing.

Our members can post their opportunities anonymously, allowing for absolute discretion. Other DEALGATE members might have access to potential targets or buyers beyond your research or network. This dramatically increases your chances of finding the perfect match.

In mid-market cross-border deals, how much would a full research for potential sellers or buyers cost you in time and money? A fortune! Let's face the fact that we cannot possibly know the acquisition or divestment strategy of every corporation around this globe. Be realistic, even if you had an M&A network partner in every country, your network would be limited to their personal connections and knowledge.

In the globalized M&A business, alliances are playing an increasingly important role. Applied properly, all parties involved will benefit from expanding their network globally and gaining transparency within a secure environment.

Over 5,000 M&A professionals from around the globe are part of our community, sharing an ever-increasing number of interesting opportunities.

Your feedback and input to this checklist is highly welcome: info@dealgate.com