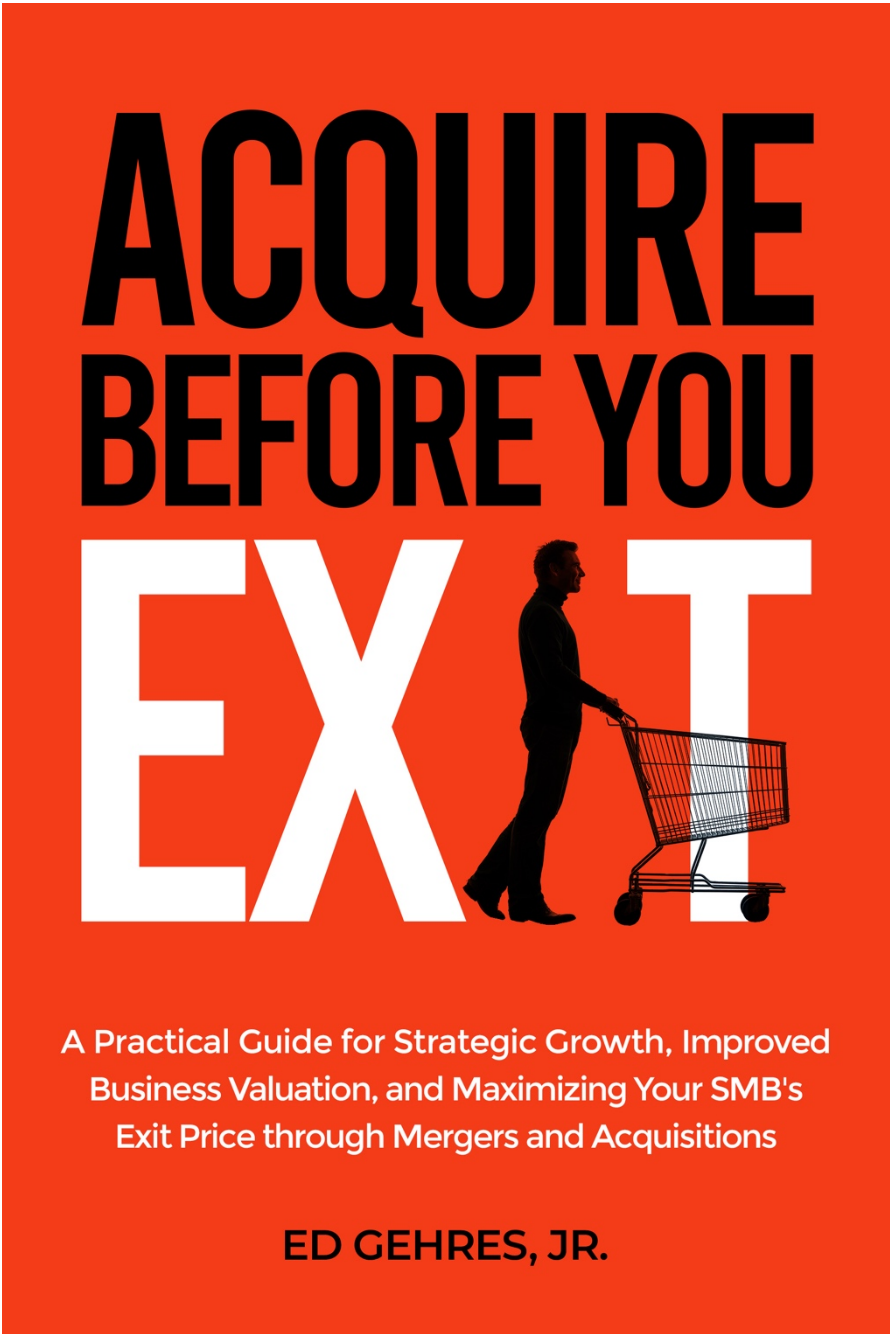

BOOK REVIEWER EDITION

ACQUIRE BEFORE YOU EXIT

A Practical Guide for Strategic Growth, Improved Business Valuation, and Maximizing Your SMB's Exit Price through Mergers and Acquisitions

ED GEHRES, JR.

Acquire Before You Exit

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For my parents, who gave me the foundations to do this work and create this book.

For my family, who put up with me and stuck with me through the many years of travel, frustration, challenges, crazy ideas, and changes. Thank you for your patience and love.

And for all the merry souls I've been fortunate to work with and learn from over the years, resulting in the experiences that led to this effort.

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INTRODUCTION

The inspiration for this book started on a Zoom call. My brand new client was working on what's known as a "roll-up" project where they acquire multiple small companies, integrate them into a single entity, and then resell the fully integrated and much larger company a few years later for a much higher multiple. But in this first call with them, I could tell they were already headed down the wrong road.

"We're not sure about the timing for financing," my new client began, speaking for himself and his partners. "But we already submitted the LOI for a close date in June."

My eyebrow at least twitched and probably raised a bit. "Ok – so you committed to a closing date, but you're worried the money won't be in place in time to close the deal?"

"Yes. That's correct."

I looked at the calendar. It was already late May. "So, we have three weeks for due diligence, you don't have a CPA to do financial diligence yet, and unless your other partner comes through with the funding, which is uncertain at this point, we might not be able to close even if we complete diligence, right?"

"Right."

I tried looking as understanding and sympathetic as possible but was characteristically blunt. “Not gonna happen. We need to work on extending the closing date and start planning for alternate funding or a different deal structure that is not all cash at closing, or both.”

“We have three other deals under LOI that are also supposed to close in June and July.”

My stomach grumbled a bit this time, but maybe that was because it was just before lunch. “Ok – that’s also a *lot* of integration work all at once. Do you have any clones?” I asked with a smile.

They didn’t laugh. Maybe it was too subtle. Stress levels were clearly high.

“We’ll figure it out. Send me all of those letters to start, then we’ll dig into the deals themselves and see what we can come up with.”

Even on that positive-sounding note, I knew the deals were already at risk. This group had a great plan and concept, working in an industry ripe for consolidation. The roll-up could be incredibly lucrative, but they had relied on poor prior advice and lacked both a strategic plan and a properly organized team to execute it.

A few months later, I was sitting up on a stage at a technology industry conference, a member of a three-person panel discussion about mergers and acquisitions. Our audience was a room full of over 150 small and medium technology business owners. The recurring question was how to attract private equity firms' money and buying power to sell their companies for a decent price.

Looking out at the hardened faces of people who had been working to build their companies for ten or twenty years or more, I answered with a statement that I truly believe: **"Sometimes the best exit strategy is a good acquisition strategy."**

And that is where the idea of this book originated. ***Acquire Before You Exit*** is about how to grow your business through acquisition so your company is attractive to the big-money buyers who can pay top dollar for your company. It's a guidebook for getting through the process smartly and efficiently (avoiding the issues my roll-up client suffered), providing tools and tricks for how to manage the process, minimize costs, and develop deal structures that provide the most significant buying power while burning the smallest possible amount of on-hand cash.

The Existential Dilemma of the SMB

How do I know when it's the right time to sell? It's a dilemma akin to picking the right line in a crowded grocery store. Many owners feel like no matter what they do, it'll be the wrong choice, and they'll end up missing out and not getting as much for their business as they hoped or thought they should. There is no magic formula to tell anyone when the time is right. You have to take action and make the time right. This book helps you do that.

How can I be sure I am getting an honest valuation of my business? Trusting others to put a value on the company that you've been growing for years is challenging. However, your confidence in the valuation process will increase exponentially when you have to value the companies you want to acquire. Learning the business acquisition process will ensure you get a valuation you agree with when it's time to exit.

How can I avoid the hassles of growing my business through acquisition? Fear of buying a lemon or encountering issues integrating a purchased business is normal and helpful. Follow the process in this book, and you'll be sure to buy the right companies for the right amount with a solid integration plan before completing the purchase. Integration becomes just another step in the process.

Where am I supposed to find the time to acquire other businesses? Growth through acquisition requires that you first have your own house in order. This book will help you do that and properly prepare for the acquisitions process. Working strategically, you will find that making an acquisition is just another aspect of running and growing your business.

How can I afford to buy another business? Many creative ways exist to structure a deal for the purchase of a company. This book will provide several financing options, advice on using them, and a process for validating and confirming their use. It will also lower the cost of outside assistance (attorneys, accountants, consultants) by providing some tools needed to get started, including advice on preparing and reusing templated materials.

Do I need outside help to do this? Completing deals requires outside assistance from attorneys and accountants and maybe others. You may also choose to hire a broker to assist you. Additionally, we'll help you understand when to get them involved and for what purposes and outcomes so you don't overspend.

Why *Acquire Before You Exit?*

Strategically grow your business. Acquiring other companies is one of the fastest ways to grow a business. The most prominent companies in the world were built using acquisition entrepreneurship.

Increase your exit price. Smaller companies get terrible valuations, often just 2 or 3 times profits. Larger companies buy up smaller companies cheaply, combine them into a larger company, and then resell the new, combined company for a much higher multiple. Depending on the industry, that new multiple could be 9, 15, or even 30 times profits. Wouldn't you rather have that?

Attract a different type of buyer. Rather than being limited to the next small business owner looking to run your business mostly like you have already been running it, growing your business through mergers and acquisitions will enable you to attract larger institutional buyers like private equity groups and big corporations with deeper pockets. These are the buyers that can pay top dollar for your business. But they won't bother with a company that only makes $200-500K/year in SDE profits. They want $2M or more in EBITDA.

Force structural improvements. Another reason small businesses don't sell for what they might otherwise be worth is that they are not running efficiently or with a professional management team. The owner runs them. You must improve your operating models, processes, and systems to succeed at entrepreneurial acquisition. We'll help you know what needs to be shored up and how. Even if you don't buy a single other company, this will incrementally improve your company's valuation. But if you DO follow through and buy other companies, you will have an easier time integrating those new resources and more time and ability to keep buying and integrating.

What This Book Is and Is Not

Guidebook for Add-On and Roll-up M&A. Most readers of this book already own a business and are potentially thinking about their exit strategy. This book is designed to provide a streamlined process for add-on and roll-up mergers and acquisitions for small and medium business (SMB) owners. It lays out the overall process for completing deals to build a company up to a level where it is more likely to sell for a substantial market price.

Not a comprehensive M&A textbook. The field of M&A is super complex. This book provides a streamlined approach designed specifically for its intended audience. A comprehensive guide would require multiple volumes and authors with experience and expertise across various aspects of the deal process. That said, even if you don't make a single acquisition, the lessons in this book will help you understand and participate in your exit process more intelligently and effectively.

Not a comprehensive guide for growth. This book focuses specifically on mergers and acquisitions to fuel growth. Many other ways exist to grow your company without doing mergers and acquisitions, some combination of which could be helpful for your company. We're not saying those methods don't work. We're simply staying focused in this book on what we consider a crucial opportunity for growth right now, especially given the transfer of wealth underway with more and more baby boomers retiring and selling (or, unfortunately, just closing) their businesses every day.

Not a substitute for getting professional assistance. While the book contains several tools and examples and DOES aim to provide the reader with enough information and understanding to save on the cost of professional advisors, it does NOT substitute for those advisors. Most owners I know who have tried to do this themselves have made costly mistakes. Please read the book, understand what you're doing, what questions to ask, and what to expect, and then get your team of professionals to do exactly the work you need them to do, and not much more than that.

A Practical Guide and Toolset. As the title suggests, this is a practical guide. It is not comprehensive and does not pretend to know everything about every company in every industry. That is impossible. Much of this book may seem to speak at a high level and may not be detailed or prescriptive enough. That is on purpose. The concepts have to be presented at that level to be appropriate for a broad audience of business owners. And because the assumption is that you, the reader, are either an owner, executive, or manager at an SMB (or a professional advisor to one of those kinds of people), the corollary is that you will know how to apply it to your particular circumstances.

If you are ready to achieve phenomenal growth for your business and prepare it for the massive exit you want, this is the book for you.

CHAPTER 1 – PREREQUISITES: What to Consider Before You Start

Looking as non-threatening as I could while leaning into my computer on another Zoom call, I said, "If you pick all of the best pieces out of a junk drawer and then just toss them into another empty drawer, all you've done is create another junk drawer."

My client was working on acquiring a company that the due diligence accountant was calling a "financial disaster area." My team had been reviewing contracts and other regulatory materials, and we had a lot of concerns as well, not the least of which was that employees were being improperly characterized as independent contractors. My client planned for this company to be their "platform" company – the one into which all other acquisitions would be integrated. But the company was a bit of a basket case, and the best-laid plans from the letter of intent ("LOI") to buy the business had to come off the table.

"Listen," I began, trying to keep the wheels on the bus, "The company has some good assets, and it is probably worth acquiring them. But their systems and processes are not good. They won't provide the structure you need to use as a foundation for your other acquisitions. You must spend time fixing it before you can buy anything else."

The response was expectedly dejected. It didn't improve when both the accountant and I suggested buying a different company with great systems, processes and controls first and then merging the assets of this company into that better-run company. The deal ended up dying only two weeks later.

Before starting your acquisition trek, you must seriously reflect on your company's state of affairs. Are you operating a functional junk drawer – it works, but in many respects, it's messy? Or do you have a solid basis, maybe with a wart or two, but otherwise suitable to integrate other companies into?

The point is, you shouldn't buy nice new stuff and toss it into a junk drawer. You may need to fix some of your internal issues before purchasing other companies and ensure you are not just taking other people's nice stuff and cramming it into your junk drawer. Or, you may need to be painfully honest about your company's shortcomings and then focus your initial searches on finding companies that help you solve those issues. This chapter is all about the self-assessment and preparation that you need to do before you start doing acquisitions.

Are You an SDE Owner or an EBITDA Owner?

One of the first things you need to determine is whether you have an SDE or EBITDA company.

First, SDE stands for "Seller Discretionary Earnings". This is a form of net profit that includes adding back into the company's earnings anything that it pays for the owner as a company expense. Such costs include car payments, life or health insurance, retirement account contributions, and more. As an owner, if your company pays for things for your benefit, then when it comes time to sell the company, those expenses get added back in because once you sell, the company will no longer be footing the bill for your Beemer. It will be paying for the new owner's Audi.

EBITDA is "Earnings Before Interest, Taxes, Depreciation and Amortization." It's a measure of the actual income of a company when some of those other elements are removed from the equation. Interest is great but doesn't reflect the business's health. You also do not want the expense of taxes being subtracted from the income the business produces. Depreciation is an accounting concept that spreads the cost of gradually aging assets over time. It helps decrease your tax burden and maybe even provides tracking for when new equipment should be acquired, but it is not directly related to how well the business is doing. Amortization is a similar accounting concept used to spread out the initial expense and residual value that an asset represents for a company over time. Again, because it is a way to account for things and their value but is not related to current incomes or expenses, it's not helpful to understand a business's current income or profitability.

Most small businesses have many of the elements of EBITDA, including taxes, interest earnings, and equipment depreciation (even if just office furniture, printers, computers, etc.), even if they are small. Companies will also often pay for particular owner or officer expenses even when they are larger and more sophisticated. So, how do you know whether you are an SDE or EBITDA owner? The answer comes down to the level of participation by the owner, the way the owner is paid or compensated, and the overall sophistication of the company itself. *Figure 1* has a breakdown of the differences between SDE and EBITDA.

Figure 1 – Comparison of SDE and EBITDA

Metric	SDE	EBITDA
Definition	SDE represents the available earnings of small businesses. It equals EBITDA plus the normalized salary of one working owner.	EBITDA is a metric used to evaluate the performance of medium to large businesses. It considers operating profitability by excluding interest, taxes, depreciation, and amortization.
Calculation	SDE = EBITDA + Normalized Owner's Salary	EBITDA = Net Income + Interest Expense + Depreciation Expense + Amortization Expense + Taxes
Purpose	Relevant for small businesses and owner-operator scenarios. Reflects what a full-time owner-operator would earn.	Useful for comparing businesses within the same industry. Focuses on operating profitability.
Typical Multiples	SDE multiples are generally smaller than EBITDA multiples.	EBITDA multiples are typically higher.
Application	Apply SDE multiples to small businesses.	Apply EBITDA multiples to medium to large businesses.

Why is this important? As shown in *Figure 2*, SDE businesses often sell for or have lower valuations than EBITDA companies. We'll talk more about valuation and multiples in Chapter 5. The main thing to understand at this point is that you need to be an EBITDA company to maximize your exit valuation. You may have a solid SDE company right now, and it may well be ready to integrate other businesses into its structure. If you are still an SDE company, your goal through the process that this book lays out is to get bigger and stronger and transition from being an SDE to an EBITDA company.

Figure 2 – Sample SDE and EBITDA Valuation Multiples [1]

Sector	SDE Multiple	EBITDA Multiple
Automotive and Boat	3.01	9.2
Food and Restaurants	2.12	9.65
Manufacturing	2.96	13.98
Online and Technology	3.21	10.56
Retail	2.45	13.46

If you are still an SDE owner, you probably need more time to take on growth by acquisition. You need to get your current company in a state where it has more of the other aspects we'll cover in this

[1] Multiples compiled from: (a) Island Business Brokers. (2021, January 29). How to establish the proper multiple of SDE and justify the valuation. https://www.islandbusinessbrokers.com/how-to-establish-the-proper-multiple-of-sde-and-justify-the-valuation/. (b) Peak Business Valuation, LLC. (2022, August 26). Valuation multiples for a manufacturing business. https://peakbusinessvaluation.com/valuation-multiples-for-a-manufacturing-business/. (c) BizBuySell. (n.d.). Industry valuation multiples. https://www.bizbuysell.com/learning-center/industry-valuation-multiples/ and (d) Equidam. (2023, February 10). EBITDA multiples by industry. https://www.equidam.com/ebitda-multiples-trbc-industries/.

chapter. If you try to buy other companies before you get to that point, you will likely overload … yourself. And then, by extension, your company. But before we draw that conclusion, let's discuss other factors defining an SDE versus an EBITDA company.

Professional Management and Advisors

If you run your business's day-to-day, you are almost certainly an SDE owner. If everyone asks you "how" questions and they wait to do anything until they can ask – you're probably SDE.

You need professional managers and supervisors to free up your time. You are still the big boss, but you need to find good people you can trust with the day-to-day.

Second-tier managers and supervisors need to be similarly strong. Ask yourself, "If my main guy Joe quits tomorrow, do I have someone else that could quickly become a "new Joe" or function in Joe's place until I can hire a new one?" If not, you also need to work on bench strength. Heck – what if Joe just wanted to go on vacation? Do *you* have to do his job while he's gone? If the answer is "yes," then you are an SDE owner, and you need to work on rising above being the primary operator of the business.

Another thing to consider is your use of professional advisors. Are you already working with a professional CPA or tax advisor? Do you have a competent business attorney? Do you have other business advisors that you work with? If not, we'll help you know what you need in Chapter 4. Leverage your network to find out who other people in your industry work with and get in contact with them.

Acquiring other businesses to grow your business will take up a lot of your time and energy. If you are baking the cakes, running the cash register, doing the end-of-day accounting, sweeping the floors, and turning off the lights at the end of the day, then you are an SDE owner. You need to rise above the business and have a team of people running the business before you are ready to acquire other businesses. Your efforts in running the company are valuable. They will be valuable as you acquire and integrate other companies, but you cannot still do that work when you integrate another company into yours.

Leveraging Systems and Automation

Are you still using ledgers and relying on manual reconciliation and bill folders? Do you create invoices on a word processor or a spreadsheet? Is your website a decade or two old and needing more eCommerce ability? Do you rely on phone calls or emails for sales orders? If one or more of these statements were true, then you're an SDE owner who isn't adequately leveraging systems and automation and may not be ready to acquire other companies yet.

You must have solid accounting systems and people and strong SOPs for handling everything related to money in your business. QuickBooks is the absolute minimum accounting standard in a small or medium business. But getting something better with more robust accounting controls is better. Think SAGE, or Microsoft Dynamics, or even NetSuite. Every accounting package has its strengths and weaknesses. Depending upon your industry, one solution might be perfectly tailored to your business because your industry is their niche. Another solution might be an albatross because it wasn't designed for your industry and lacks essential tools designed specifically for your business. Be aware of this, and if you decide to upgrade your accounting systems, get professional help and CHECK THEIR REFERENCES! Plenty of companies do accounting systems implementations, but not all of them should.

Other functions within your business also need to be using solid systems and automation. For manufacturing companies, anything that can be automated cost-effectively should be. But sometimes “powered by humans” is as good as it gets, especially on a budget. Find out what other successful companies in your industry are doing and what they’re using. Attend a trade show or a conference or watch some YouTube or documentary program to get some ideas and hear about how others are doing it successfully, or at least better than you. You might also search for “best practices” in your industry or even chat with Bing AI or ChatGPT for some pointers on what works best in your industry.

The bottom line is to determine what you can and should do better. Determine where your company is inefficient and how to fix it. Take action to get on the path to improvement, or know precisely what you want to buy with your first purchase to catapult your business efficiency forward with your first business purchase. If you want to get a new system or machine and are sure that one of the companies you want to buy will have it? Then, add that to your strategy, which we will cover in more detail in Chapter 2.

When Your Company Runs Fine Even When You're Away

If this is you – you might be ready for acquisitions, but you should still sit down with your management team and do a further assessment:

- What could you be doing better? Have your team do a SWOT[2] analysis and then compare notes.
- Ask this question: If money were no issue, what would they like to have to make the business better, more efficient, or more profitable?
- What kinds of things are holding them back? Have them consider what they do every day and how those processes, systems, or people are preventing the company from achieving the results it could achieve.

As you are working through these fundamental questions, be sure to challenge your team to go deeper. Dig down into the details of what could make your company the juggernaut that will propel it toward growth and a significantly improved exit valuation for you. Some of the ways to get deeper and how they could inform your acquisition strategy include the following:

- **Consider staffing issues**. Are there places in the company that lack the proper workforce? Could acquiring a company with more resources address the issue, or will that result in even more operational stress, and why?

[2] SWOT stands for "Strengths, Weaknesses, Opportunities, and Threats" – a quick web search will lead you to multiple resources and tools to learn more.

- **What about equipment?** Does the company have the equipment to handle the required output easily? Are there machines or infrastructure that could improve it or increase capacity? Determine whether acquiring equipment through acquisitions might be another strategy that would drive your business forward and whether you need to purchase that equipment before buying other businesses or whether finding companies with the upgraded equipment you need should be one of your acquisition strategies.
- **Consider your business locations.** Is your company correctly positioned to serve all the markets it wants to or should be able to reach, or does it need additional locations to facilitate that reach? Expanding beyond your current geography could be an essential aspect of your acquisition strategy and may open up your business to a much greater profit potential.
- **Are your sales and marketing capabilities as strong as they should be?** Sometimes, deficiencies in these areas are related to people. Sometimes, they lag because of poor systems and processes. Other times, it is simply a matter of focus. But should you be looking for companies with excellent sales and marketing but may need to catch up on delivery because they need your operational superpowers?

Why are you doing all this? Because those areas for improvement need to be factored into your acquisition strategy. You can buy those solutions by acquiring companies that have already implemented them, with team members trained to use them efficiently.

And if the company you are looking at buying is worse off than you – you probably shouldn't buy it because you'll simply be acquiring a headache.

The other reason to do this is to shore up your company so that integration is a breeze instead of a headache. Investing in better systems, stronger management, more team members, and better processes will be worth it when your company goes from $3M in revenue to $15M or $30M or more after acquiring a set of complementary companies.

Ensuring Proper Organization and Structure of Your Company

Shifting gears a bit from the operational assessment of your company, there is one more aspect that you should evaluate and address before embarking on the acquisition trek: making sure your company is organizationally and structurally ready for acquisitions.

Most companies initially form with super simple operating agreements, etc. That was expedient but short-sighted. Now is the time to shore that all up. Do you still have the same formation agreements you created when you formed the company ten or even twenty years ago? Do an upgrade before you start acquiring others.

Depending on the type of company, organizational docs should be updated so they are "industrial strength." The Resources section of this book contains a list of different company types and the organizational documents required or used for each. To prepare your company for acquisitions, ensure your organizational documents are adequately prepared for those changes. Consulting an experienced business attorney is an excellent investment to get this done right.

Have them look at your current documents. Talk to them about your expansion plans. And then make sure your company is appropriately prepared for acquisition entrepreneurship. Some aspects of your company's organizational documents that should be reviewed include:

- Ensure your company has enough equity so you might use it to acquire other companies.
- Make sure your agreements are strong enough to survive financial applications and creditor scrutiny.
- Confirm your agreements facilitate the potential for mergers (a combination of relatively equal-sized companies) rather than just acquisitions. You want *your* agreements and documents to survive, not the other guys'.

If you didn't handle your corporate or company formalities right – get help and clean it up. Even if you don't need it for acquisitions, you will need it when you sell. Fixing it now ensures you're more than prepared for both.

And if you are not at least an LLC or a corporation, then now is the time to do that. If you are still determining what entity type is right for your business, consult your business attorney and accountant/tax advisor to make an intelligent choice.

Not every business is ready to make acquisitions, but you easily can be. You must have a solid foundation to build upon. If your company needs operational improvements, buying a new company may exacerbate those problems. Clean house first.

If you have a well-run business with professional managers that is properly formed and organized, then you are ready to move on to the next step, planning what you want to buy to grow it.

CHAPTER 2 – STRATEGY: What *Should* You Buy and Why?

"Never assume the obvious is true."

-- William Safire

"Creativity is just connecting things. When you ask creative people how they did something, they feel a little guilty because they didn't really do it, they just saw something. It seemed obvious to them after a while. That's because they were able to connect experiences they've had and synthesize new things."

-- Steve Jobs

The point of these two quotes is simple: When you are getting ready to go out and acquire other companies, you need to forget about obvious answers, get creative, and have a real strategy.

The most obvious path I see businesses try to follow when growing by acquisition is trying to buy out their competitors. While that is one way to do it, it can be harder to do successfully, doesn't build as strong a company as you might think, and lacks the creativity that more often leads to something truly remarkable.

Strategy is also an often used and abused word. But if done correctly – if you truly spend the time to identify exactly what would produce the best results and deliver the most incredible synergies – that is when you will build your company into something the big-money players want. That is when you will have built wealth within your business. Your Chapter 1 self-assessment should help illuminate the creative ways acquisitions can grow your company. Let's leverage that discovery and create the acquisition strategy that will fuel your company's growth and generate a lucrative exit.

Knowing What You Do and What You Need

Understanding what your company does is crucial to preparing your acquisition strategy. Your company has likely been in business for years, and you know your industry and business well. But when you are doing acquisitions, you have to expand that knowledge. You need to know MORE about your industry. You need to understand more about the products and services you are offering or could offer or that competitors are already offering. You need to know how other companies handle operations, sales, marketing, branding, customer service and communications, and more.

You may be the person in your industry that everyone looks to for advice and guidance on operating successfully. On the other hand, you may have been heads down just getting the job done for years, and there may be some changes, innovations, or updates that you should have noticed. I once helped a company that had been killing it in digital marketing. Then they took their eye off the ball (because they started eyeing their exit), missed two consecutive Google search algorithm updates in the same year, and had to scramble to save their company.

The good news is twofold: (1) Information is relatively easy to get these days with search engines and AI tools that help you find the answers to nearly any question, and (2) You don't need to do a lot of research, you just need to get up to speed on the latest and greatest in your industry and its supporting industries and services. This external research is supplemental to the self-assessment you did in Chapter 1.

First, research companies like yours that are moderate to significantly larger. If you are doing \$500K/year, look into companies doing \$1M, \$2M, or \$10M/year. See if you can determine what they are doing differently, better, or more efficiently. What do they offer that you don't? What do they have that you don't have? How are they presenting themselves to the market differently than you are? Could you compete at their level if you had the same people, equipment, systems, and other resources? And if the answer to this question is "no," you need to understand why and determine what else might be required to get to that point.

From this research, you should also determine where you could save money in your operations if you had those additional capabilities. Sometimes, new efficiencies and cost savings are obvious; other times, you have to dig deeper. I'll give you an example.

At one company that was implementing the software my company sold, the manager complained that they "weren't seeing the ROI." This was only a few months after going live, and they had implemented our creative services workflow and project management modules. On the manager's desk, I saw a project folder.

"Is that a new project folder?" I asked.

"Well, no. We just finished this campaign," The manager replied.

"Perfect," I replied. "That folder is about half an inch thick or thereabouts, right?"

"Yeah, so?"

"When we were first getting started with your project, I remember seeing super fat project folders. I remember one was in two nearly two-inch thick folders. Were those fatter project files similar to the project in this folder?"

"Yes, but what does that have to do with saving money on the creative marketing process?"

"What do you do with all of your old project folders?" I asked.

"They go into storage," the manager replied, "why?"

"Because your ROI is right in front of you, and you simply don't realize it. Not only are you saving on printing expenses, paper and toner or ink, you're also saving on storage costs. If your project file sizes have been reduced by 3 or 4 times, you're not just spending that much less on printing supplies, you're also putting that much less into your storage facility. That means that, over time, your storage costs will continue to drop. Plus, all the materials in that folder are now in the software, right?" She nodded. "That means you don't have to go get stuff from storage anymore because you can look at the last campaign you did simply by calling it up in the software instead of going to the file and paging through printouts. It seems to me your ROI is pretty impressive. You need to break out a calculator and put a number on it."

The company did the calculation on just how much they were saving. In a year, they were saving more than 3X the cost of the software just on print supplies and storage space alone, which didn't even count the time savings for not having to look through old files to reuse old ideas and materials.

This may seem obvious now, but back in 2006, it wasn't. Remember this story when determining how acquisitions can drive savings and efficiencies in your business. That is the value accelerator that will make each smart acquisition drive incredible value for your business.

Another sometimes ignored factor to consider and understand is what you might need to reach new customers or prospects that you could sell to. Again, buying your competitors, acquiring their machines or people, or a book of customers is only one way of growing through acquisition. Could you buy the attention of the people who might want your product or service? What if you could acquire a platform that would position your company as a leader in your industry, one that people would naturally come to because of that leadership status? It's easy to think about this solely in terms of additional salespeople, more marketers, or a better website or killer marketing software. But there are lucrative channel acquisitions available that eclipse their value.

What you need to be looking for as you research and look for ways to build your book of customers through acquisitions is where those customers spend their time online. Find the groups they use to get their information or trade their stories. Find the channels they use to watch videos about what your company does or to learn about its services. Find out who the influencers are that they respect the most. Then, evaluate how those platforms, channels, or voices could accelerate your business.

Overall, constantly think about both top and bottom-line revenue. You need more business coming in the front door, and you need to deliver to those customers for the lowest possible cost. The acquisitions you want to make are the ones that produce gains in either or, preferably, both of these metrics.

The final part of your analysis needs to be what you want to achieve. How will you grow to the point where you will have the lucrative and successful exit you want? What is your end goal? How much will be enough? When we discuss valuations, you will have even more information to help you determine this answer. We'll also revisit it in Chapter 9 when we talk about knowing when you've reached the point where you are ready to exit.

Thinking Beyond the Obvious

As I mentioned in the introduction to this Chapter, owners often believe the only way to grow is to buy competitors. That is a gross simplification of the SMB M&A opportunity. The truth, which you should already be thinking about based on your self-assessment and the additional research you will do, is that the best growth-by-acquisition strategy is one that thinks beyond competitors.

One non-competitor target you might want to consider is a supplier or service partner or an adjacent business (one that does something that you don't currently do but is very similar to what you do, and your customers also need that service or product). Some examples:

- You run a car salvage yard, and you know an auto body shop that hunts through your yard for spare parts.
- Perhaps you manufacture custom parts for Porsches. What if you could buy a company similar to yours and expand your capabilities to Ferrari's and Maserati's?

Above, we mentioned looking at where your customers or prospects might gather information about the things or services your company provides. Buying these information sources is another out-of-the-box acquisition target. Think Facebook groups, YouTube channels, and Instagram or TikTok influencer accounts. Many of them CAN be acquired, and many earn advertising revenue that could be an additional source of income or the source of funds to *pay* for that channel. Once you own those channels, you own the attention of many new potential customers.

Be thinking about each of the following areas for you to expand into:

- Competitors that have something you can use more than just their customer list – like different services or products or systems or processes or other things that you and your team wish you had
- Suppliers or vendors that you use most or all of the time
- Ancillary or adjacent or partner companies. Do they take your products or services and expand upon them? Do they

provide services that you currently do not (especially if they represent recurring revenue streams)? Do they serve other markets or customer types you are currently not serving because they've figured out something you haven't? Any of these might be good acquisition targets.

- Systems or software companies. Look at purchasing the company that handles your automation. Especially if it is a customized solution or specialized process or you could achieve greater efficiencies if you had control over it, then look to gain that control.
- Service providers – like marketing agencies or consultancies. If you buy services from them all the time and could achieve even more if they were part of your inner circle, then find out if acquiring them makes sense. (Side note to readers from the software industry: even though you will and have been told that having too much service revenue waters down your software profits and valuation, that is shortsighted compared to the reduced churn you will get by having and smartly leveraging services. That's a topic for a whole other book, though.)
- Media plays. As mentioned above, getting greater access to customers' eyeballs and control over what they see is a great way to expand your business.

Broadening Your Geo

Another limiting concept is only buying companies in your part of town. But the guy across the street is likely not your best purchase. Instead, look out at other areas of town. Other areas of the same state. Or even out-of-state companies that may provide access to another market. This again goes with thinking outside the box. It also follows from your research into the industry and the market. If there are opportunities to acquire a smaller company in a new market that you could quickly build into the market leader by leveraging your team and systems, that is likely a solid target.

Some of the questions to ask yourself when you look at broadening your geo include:

- How much demand is there for your products or services in the new market?
- How many companies are already in your industry in that market? How well are they doing? Are they satisfying the demand, or is the demand more than they can handle?
- Are there any barriers to entry in the new market? Do you need additional licenses, or are the licenses you need limited in some way that's incompatible with your current operations? For example, construction company ownership is limited to licensed contractors in some states. This prevents big companies from buying up all the smaller players. In this situation, you may still consider getting into that market, but you may need to do it as a merger rather than an acquisition. We'll talk more about that in Chapter 5.

Naturally, expanding your geo involves complexity. New licenses, company formation or registration, taxes, employment laws, etc. That should not prevent you from considering and looking into other locations. This is part of strategizing. Include expansion into new markets via acquisition as part of your plan. But, as we'll talk about in Chapter 3, you will want to start close or local before you go big and distant.

The Many Motivations of M&A

As you develop your acquisition strategy, consider the many motivations to buy or join forces with another company. Here are some of the many reasons that acquisitive companies consider, including several that we have already touched upon to make this list as inclusive as possible:

Product line expansion: Acquire new companies to expand your product line by adding functionality, capability, product or service types, categories, etc., that you don't currently have, but that would interest your customers. This includes adding product brands. You may be able to acquire brands that are more recognizable and have more loyal customer followings, then potentially produce those brands more efficiently with the scale that your expanding business creates.

Eliminate the competition: This is the oldest of motivations, but it can be somewhat problematic. Regulators don't take kindly to consolidations within an industry, especially if the combination will result in higher prices due to a lack of competition. Especially if only a few companies are in an industry, you must be careful about eliminating the competition. You're better served keeping those competitors in business and beating them in the market by growing your company smartly. Then, you're not an aggressive competitor. You're just the better businessperson.

Gain skilled staff: In many industries, finding, hiring, and retaining good workers can be challenging. Acquiring a business with people with the skills you may be lacking can solve or alleviate that problem.

Customer list acquisition: Many acquisitions are simply of another company's customer lists. This usually falls within the competitor acquisition rationale, but it can also be a simple purchase of a list. It is not absurd to buy a company with a list of customers that could also be customers for your products and services and then sell off the parts of that company you don't want to be involved in. You gain a customer list and maybe some additional products and then pay for the purchase by re-selling the parts of the company that don't fit your overall plan.

Gain access to new markets: As mentioned in the geo section above, buying companies in other markets can produce many benefits. It has challenges, but none that can't be overcome, especially if accessing that new market has an ROI that builds top- and bottom-line revenue.

Gain new technology or equipment: As we've discussed, sometimes it's all about the tech. Suppose another company does it better or faster or has the necessary equipment or technology to build your company. In that case, acquiring them might be the best way to get that tech you need, especially since it will come with people already trained and experienced in using it all.

Gain bigger or better facilities or locations: Your company may be bursting at the seams. Maybe no better locations exist in your part of town. But across town, there is a company that is a strategic fit for your company and has plenty of room for expansion. That could be an excellent reason to acquire that company. Alternately, you may just want the additional locations. Efficient operation or customer accessibility may require multiple locations in a single market.

Leverage better operational models, systems, or other advantages: Sometimes fixing your own company's issues can be as simple as acquiring a company that is doing it better than you and then merging your inefficient processes into the streamlined processes of the acquired companies.

The bottom line is this: The broader your view of what would help you grow your business before you sell it, the more potential targets you'll be able to find.

A Word on "Timing"

The last thing to cover in a strategy chapter is timing. I've worked with clients and companies obsessed over getting the timing "just right," only to miss out on opportunities.

Have you ever gone to the grocery store, packed up your shopping cart with goodies, headed to the checkout, and can't determine which line is fastest? That's because picking the right line is more luck than science. The more you obsess, the more likely you pick wrong or hesitate until all the lines get longer. It's impossible to pick the right line based on observation and planning.

The painful truth that has been argued many times and in many different ways is that there is no "right" time. The economy changes daily based on numerous inputs and will never be perfect.

The only "timing" that matters is your own. Your business needs to be ready, you need to be prepared and committed, and you need to stick to your strategy, follow your plans, and listen to your advisors within the areas you hired them for (please don't take macro-economic advice from an attorney or even a broker – or even a professor of economics for that matter – they don't know any more than you do).

Some of you may be thinking this is crazy. What about interest rates? What about the economy? How about the stock market? What about the report that said the sky is falling?

Well, what about them? Those factors (with the exception of the sky falling) and others shouldn't be ignored, but they shouldn't stop you from moving, either. Are interest rates rising? Then, be prepared to craft the deal differently. Is the economy tanking? It might be the perfect time to buy another company. But make sure you are not overpaying and can leverage the acquisition to build your business.

When you believe you're ready (and even if you aren't sure you're ready but have done everything you need to be prepared), make like Nike and "just do it."

Remember as you assemble your acquisition strategy that you're not just buying up competitors, even though that is one possible target to consider. Instead, you are looking for any helpful piece of the larger puzzle, your eventual exit value proposition. Leverage your self-assessment and any strategic research you do and build a plan to guide you through the acquisition and integration process. Starting with this plan for what to buy is just as critical as making sure your own house is in order before you start. Once you have a list of target types (and maybe even some potential targets), it's time to get busy specifically targeting what you can and will acquire. Targeting and preparation are the topics of the following two chapters.

Preparing Ahead for the Exit Payday

I was recently at lunch with a couple of wealth advisors and remembered one more thing you must add to your growth plan. Them. You are about to grow your company through acquisition and achieve a fantastic exit. Upon your exit, you will receive a huge payout. While you may already be wealthy, you will be even wealthier once you have completed the acquisition program in this book and built your business up to three, four, five, or even ten times its current size. You will need more than just a tax advisor. You will need professionals specializing in helping wealthy people maintain and increase their wealth. While the tax advisor on your deal team provides advice for controlling the tax implications of each deal, a wealth advisor offers ongoing advice for managing that wealth. To get the most significant value from their assistance, you want them to work with you before that wealth is even in your hands. The very best wealth advisors are also great collaborators and help marshal a team of advisors to help them manage and preserve your wealth. While wealth advisors are not necessarily part of your "deal team," start working with one now to prepare for your big exit payday properly.

And now … on to targeting.

CHAPTER 3 – TARGETING: Finding Businesses That Will Build Yours

I learned a lot by working with marketers at some of the largest companies in the world. A concept that every marketer knows and bases their efforts upon is that, to get a single sale, you need to get your message out in front of 100 different people. Of those people who see your message, maybe half will respond. Of those people who respond, only a fraction will engage. Of those who engage, only a handful will enter the sales process as leads. And of those leads, only one will complete a transaction.

Finding companies to buy is similar. You need a barrel full of possibilities to score a handful of successes. Not every business you desire will be available, affordable, or a good fit. A solid understanding of the tools and strategies needed to evaluate multiple targets, understanding the concept of 'fit,' and recognizing when to move on to the next opportunity are critical to a successful growth-by-acquisition strategy. In the game of growth, flexibility isn't just an asset; it's a necessity.

Therefore, this chapter is about building that acquisition target pipeline, using available tools and resources to find a set of suitable targets, and then keeping that prioritized list constantly refreshed so you can stay focused on acquisitions and integrations.

Defining Your Targets

In Chapter 2, you blended the self-assessment from Chapter 1 with additional research and developed a strategy for what types of businesses to target in your acquisition plan. To find the specific companies you want to target, you need to build an easily understood and communicated definition of that target type. The most effective way to do this is to create a standard target definition structure that you can use for any target type. The definition needs to be simple and easy to remember, and it needs to be easy for people to understand. I recommend the following target definition elements in the following order:

- **Type of business**. This might be the industry, company type, or a combination of both. For example, "I'm looking for pet nutrition e-commerce companies," "I'm looking for digital marketing agencies," or "I'm looking for small machine shops focused on high-performance automotive parts."
- **Company size**. Company size can mean different things, but the most effective way to describe the type of company you are looking for is by defining the number of employees, the amount of revenue they make annually, and the amount of profit they achieve each year. For example, "...that has at least ten full-time employees, has $5 million in top-line revenue and 30% net margins." Or, "...with around twenty FTEs and $500K in annual profits."

- **Location**. Depending on whether you are looking for companies in a particular location, this may be optional. For example, "...in the Miami metro area," or "...in the eastern United States," or "in North-Central Ohio."

- **Other**. If there are other specific aspects of the company that you want people to know, add those to your spiel as well. You may want a company that has a particular license type. Or you're in the software industry and want to clarify what technology stack your target company leverages. Or you need to ensure that the manufacturing process is compatible with your current company's process.

For each target company type, you need to have this information down and ready to communicate so that when you get to that part of the phone conversation, elevator conversation, email, or text message, or you need to jot it down on a cocktail napkin, you can quickly and easily rattle it off. "*Joe, I'm looking for auto maintenance companies anywhere in New Jersey with top-line revenues of at least $1 million, at least eight full-time employees, profit margins of 20% or better, and that specialize in servicing European cars*."

This exercise is no different from developing an elevator pitch for your company's new product or briefly telling an interviewer your background. It should be formulaic, consistent, and include all the pertinent details. You should be capable of using it for every type of company you want to buy and with every person you want to help you find that company.

Targeting Strategies and Tools

Look for proximate possibilities first and then gradually look farther and farther away. Why? The first acquisition will be challenging. It's your first time. You need a solid first win to build your confidence and test your team (both internal and external – as we'll discuss in Chapter 4), your processes, and your ability to execute your plans. The nearer your first acquisition, the easier and cheaper it is to visit. A closer first acquisition is more accessible to evaluate – it might be right across town, a quick drive. You'll be able to leverage its resources faster and with less effort. You may already be familiar with some of their people or customers, and your team can visit them more easily during the integration process.

Next, get busy leveraging your network. Some people recommend just getting the word out en masse: put a blanket announcement out about your search. The theory is the more people that hear your message, the more chances you have of finding what you want. But that approach is fraught with risk. It's like throwing a bowl of spaghetti against the wall to see which noodles stick to it.

First, do you really want everyone to know what you are working on? Do you want your competitors to know? Do you want all the close-by targets to know you're "coming for them"? This is also the same needy thing that hundreds of thousands of other people do daily. Spammers: the ones that annoy you and waste your valuable time deleting the email, unsubscribing, politely responding, or whatever else you do to get past it. Why do something irritating when you want people to respond positively?

A better approach is to reach out directly. Make calls, send emails, message contacts, and get back in touch with people. If you haven't been in touch for a long time, don't immediately ask them to do something for you. "Hey, I'm going to start acquiring companies. Do you know anyone that…" is about as effective as "Hey, my cousin Judy is looking for a new job. Do you know anyone that's hiring?" or "Hey, I need fifty dollars. Can I borrow some?"

Instead, offer them something to get them to reconnect or want to work with you. Ask them to write a guest blog post for your website with writing credit and links back to their website so they can get access to your customers, followers, and search results. Offer them an invitation to an event. Provide them a copy of some information or a clipped article that you genuinely believe they'll be interested in (and that means of interest to their business or them personally – don't just send a nonsense article or a funny meme).

When you get them on the phone and talk, start by finding out how they are doing. Ask them about their business, their job, their family, or even their dog. Don't immediately tell them about your expansion plans until after you've broken the ice and they're through talking about themself. Then, when they ask what you've been up to, they'll be warmed up and more likely to ask questions about what you're looking for and how they can help you. You now have a genuine affiliate in the field who is more likely to contact you if they see something.

Once you make these connections, don't let them go dormant. Stay in touch, especially with people you think have additional connections that can help produce results. Stay top of mind. Send them a client or customer if you can. Help them out with something. Get them feeling thankful. You will be rewarded.

If you contact or try to reconnect with people over email or a social network messaging service (such as LinkedIn), be careful about sending that same message out to many people, especially if they know each other. It will look and feel like spam if you don't personalize the message to every person you contact. No matter how you do it, spam gets ignored. This is a numbers game, but a few honest conversations, contacts, and search agents or affiliates gained by being genuine will be much more valuable than a hundred who capitulated because they didn't want to ignore your spammy feeling and needy-sounding note. If you want actual results from real people, you must act and behave like a natural person, not a bot.

While leveraging your network is likely to get you some great connections, it can't be the only way you look for viable acquisition targets. You will need to get busy doing target research.

The simplest, easiest, and most obvious way to do this is via Bing or Google search, looking for companies with the particular targeting information you've established. You might also leverage any of several company data systems that are available. In the Resources section of this book, there is a list of Target (or Lead) Research Systems and Services that you can look into and potentially use. As you research these systems, I recommend that you stay away from high-priced solutions like ZoomInfo unless you can get access through a partner (like a broker you hired to help find companies to buy). Their information is no better than anyone else's, and they charge a premium for their service. You have better things to do with your money, and there are cheaper alternatives.

Last but not least, get your team working on it as well. We'll discuss how to choose and organize your team in Chapter 4. Once you have that team assembled, they should all leverage their networks and use search tools to find companies to acquire. This is a team effort. Get your family working on it. Search everywhere for the kinds of companies or businesses that you identified in your strategy and figure out who the right person is to contact at those businesses.

Pre-Screening the Opportunities

As you assemble your target list, you should pre-screen those companies before you contact them and start the acquisition process. Research the company on the internet. Look at their website. Check their social media posts. Find them on Yelp or whatever other feedback site might be available (depending on the industry). Use Bing Maps or Google Earth to see their location using satellite imagery. If they're close by or you happen to be in their neighborhood for whatever reason, do a drive-by. If they are in your industry, do a test order or see if you can find someone who has bought something from them or utilized their services.

Contact any references or customers that you may know or be familiar with. Find out what kind of reputation they have. You may even be able to do this by looking up people on LinkedIn who work at a customer company and are in the correct department or function that would use the target company's product or services. Ask about their experience with the target company and its products or services.

The bottom line is to find out whatever you can before you get on the phone with them. This up-front information is helpful to determine whether they are a good fit for your acquisition plan and to keep the conversation going once you get the owner or chief executive on the phone or across the table from you in a coffee shop.

"Hey, your company got a community pride award from the local newspaper. How'd you manage that?"

"Wow, I saw that the Feds launched a big investigation into that one company you used to sell to. That had to be scary!"

Know your target. Be ready to communicate and engage.

Prioritizing Your Target List and Next Steps

When you have a solid list of potential targets, get to work doing a preliminary prioritization of your target list.

In Chapter 7, when we cover the due diligence process in depth, we'll discuss determining whether a company is a good fit more thoroughly. You'll want to leverage that information to help you decide how to choose what companies to call first.

In Chapter 4, we'll talk about assembling your acquisition team. You may want particular members of your team assigned to initiate outreach to various targets either because of existing relationships or some specific understanding of that company or their recent news releases or events.

Remember that flexibility is critical. You want a plan, and this is part of establishing your plan. You figured out strategically what to look for. Now, you have a growing list of companies you want to contact that fit your desired acquisition criteria. You've prioritized the list and have information to help you make first contact.

But before we get there, let's talk about putting together your acquisitions team: the group of internal and external resources you'll rely upon to make this adventure possible and successful.

CHAPTER 4 – PLANNING: Getting your Deal-Making Ducks in a Row

Bestselling author Lee Child's main character, former Army major Jack Reacher, always says, "Plan for the worst; hope for the best," and recalls how "Even the best plan doesn't survive first contact with the enemy." Boxer Mike Tyson is famed for colloquializing that militarism as "Everyone has a plan until they get punched in the face." It's enough to make you doubt the value of planning.

As a captain in the army, one of the many little leadership acronyms impressed upon me was "The Seven P's," which is "Proper Prior Planning Prevents Piss Poor Performance." You must have a plan that includes knowing when to go to "plan B."

Once you get to this process stage, remember to be flexible, adjust, and roll with the punches. You will encounter the unexpected and have to reassess, regroup, and maybe even reconsider. But that is all part of the game. This chapter is about having a game plan that provides structure and flexibility so that only the best possible deals make it to closing.

Assembling Your Team

This book's Resources section contains several tools you should look at before you start building your team. The Model Due Diligence Checklist and the Deal Documentation List are two items you should review carefully before choosing your team.

The Model Due Diligence Checklist will be discussed in more detail in Chapter 7 when we discuss getting the first deal done. That checklist covers the information needed before you write a check, get a loan, or complete an acquisition. The more you understand what you will review, the more you'll know which team member is best equipped to help with that work. You'll also better understand what external resources will be needed because you don't have them in-house.

The Deal Documentation List provides an overview of the documents needed to close a deal. That list should also help you understand what internal resources and external experts you need on your team.

For those anxious to hit the starting gates, I suggest you finish reading this book first. Take some notes as you complete each chapter, but don't start until you've read everything. It's similar to not writing an introduction for a book until you've written it. How do you introduce something that doesn't yet exist? Take notes, store that energy, and take action once you finish the Conclusion of this book.

Choosing Your Internal Team

You are about to buy another company, and your team will be responsible for integration. To the extent that it makes sense and doesn't take them too far away from their regular day job, you should involve some of the critical members of your team to assist with evaluating prospects and reviewing due diligence information. This will accomplish two things: (1) **Improves buy-in**: being part of the process imparts a sense of ownership; (2) **Streamlines integration**: involvement in the acquisition process better prepares them for incorporating the acquired company into yours.

By department, these are some of the people or positions from your internal team that you should consider involving in the acquisition process:

- **Accounting** – Your controller or other accounting leader should be on calls with the external accounting team (who we'll discuss below) when they review their due diligence findings. They can review some core diligence information, but don't let them get bogged down in the weeds.
- **Operations** – Whatever kind of business you're in, whether construction, professional services of some sort, technology (software, IT services, or hardware, etc.), commercial properties, manufacturing, or equipment repair services, you need the specialists and leaders from your team reviewing what the other company does to gauge their "fit" with your current operations both from a "how they do things" as well as a "who are they" perspective. Only Ops team members can adequately assess the value, condition, appropriateness, or issues in another company's operations, including people, processes, and technology. For technology companies, determining the ability to integrate another company's software with your own

easily is critical. Doing a code review to ensure no unhappy surprises is also essential. Each industry has particular tests to determine whether the two companies' operations are compatible.

- **Sales and Marketing** – Team members from these two departments should be included on a primarily consultative basis to understand what the prospect is doing to find customers, compare customer lists, uncover overlaps, and learn how the new company will be additive. They should also be consulted about adding new brands, service lines, or lines of business and what it will take to integrate what the other company has developed and built.
- **Human Resources** – If you have an internal HR manager, they should be on deck and consulted to understand differences and similarities between policies and procedures, to assist with reviewing HR-related due diligence, and to assist with determining how the integration of people will work.
- **Legal / General Counsel** – If you work with a business attorney regularly or have an in-house counsel who understands your company, its history, its formation, any issues it has run into in the past and knows the direction the company wants to move in, they should be apprised of your plans and weigh in on challenges they may see with the process. That said, unless this attorney is a "deal" attorney, they should not handle the deal process.

Selecting External Team Resources

Who don't you have internally? Whatever you lack in-house, you should find consultants or other knowledgeable advisors ready to jump in and assist with specific issues and questions as you work through diligence, closing, and integration. While some of these folks are additive, the first two are mandatory.

- **Legal** – You specifically need an experienced deal attorney. Doing M&A may not be your regular attorney's forte. Get an attorney who understands deal mechanics and due diligence and knows and can explain the documentation that goes into a deal.
- **Accounting / CPA** – Again, you need an accountant or CPA with a deal focus. They will be a critical part of the due diligence effort and will be tasked with looking for accounting and finance issues that your internal team may not see. Not every CPA does this kind of work. Specifically, ask the CPA whether they handle due diligence for M&A projects. If they do not, keep looking.
- **Tax Advisor** – Every deal involves tax issues. You need to understand the impact of the overall deal on your current business to know how to prepare for the tax consequences properly. Additionally, you need a tax expert who can assist with reviewing the deal structure to help ensure that the deal is put together in a way that will most benefit your annual tax filings and bills. Tax advisors can also help review the taxes of the target companies during due diligence as well as in preparation for closing. This may or

may not be the same resource as your deal CPA/Accountant.

- **Other professionals** – You may also want the assistance of outside professionals who can perform inspections of equipment or buildings, assess personnel (HR), perform detailed technology audits (software industry), and more. The need for external professionals depends on the industry and may also be dictated by the target type.

Again, be sure that you fully understand the acquisition process and all the aspects of deal-making, documentation, and integration before you form your team. Your situation may have specific requirements that need to be considered. Don't start the acquisition process without a team that can help make the process smooth and efficient.

Preparing materials and process

To help you in your acquisitions journey, the Resources section of this book has a **Deal Process Checklist and Project Plan**. This project plan summarizes the process outlined in this book and is designed to be a starting point for developing your project plan. Use that checklist and the other materials covered in this book to help you understand who needs to be on your acquisitions team and to guide the planning and execution of your acquisitions. You will want to customize that template to your specific process. Everyone on your team needs to be familiar with and provide input to that plan, as it will become the roadmap to your overall acquisitions process.

Your team should also review the **Due Diligence Checklist** in the Resources section and work together to make it fit exactly what you need to review as part of your acquisitions validation process. We'll talk much more about using that checklist in Chapter 7.

We discussed the **Deal Documentation List** in the Resources section earlier. We'll cover that list again in Chapter 7. As the buyer, you are the ones who typically prepare the deal documentation. You and your team (especially your deal attorney) need to review that list and get as many of those documents ready to use as possible before you even get started with the first deal. You will also want to template those documents so the same primary document can be used repeatedly as you acquire companies.

It is not possible in a book like this to provide suitable templates. Deal documents will vary based on the target company type, industry, and deal structure. Even in your deals, the structure may change from one deal to the next. Every deal may be unique. But if you have a good base structure appropriate to the bulk of the companies you will be going after, you will save yourself a lot of legal time and expense. The more familiar with the documents your deal team is, the more systematic your acquisition process will be.

Because different target types will have different closing packets, you may have one set of documents prepared when you acquire a media company, a different one when you acquire a supplier, a different one when you acquire a competitor, etc. Using your strategic plan, your team should try to pre-stage as many of the deal documents they expect to need based on the strategy and targets as possible, so they can be quickly put to use during the deal process.

You will also want to pay special attention to the diligence areas or materials that should be inspected based on your industry.

Every industry is different. You are the expert in your industry, and you know more about the kinds of things to look for and what deal elements might work for your acquisitions. Work closely with your deal attorney, CPA, and tax advisor to customize the due diligence checklist and the deal documentation to ensure they fit your industry correctly.

If you don't get these tools together in time for your first due diligence process, then be sure to budget more time to do it as part of that first deal. Once you establish it during that first deal, you reuse and adjust those tools as needed each time you start a new deal.

Using Systems and Services

Many companies have developed software to help streamline the M&A process. The software you want to use during this preparation stage ranges from the information systems you may have used in Chapter 3 to prepare your target list through project management systems, virtual data room solutions, and overall integrated M&A automation solutions. Let's talk about each in turn.

Information Systems

The company information systems discussed in Chapter 3 will be helpful for more than just targeting as you get your plans together. In addition to the basic research that will help you with outreach to get the deal process started you will also be using these systems to help validate the information you receive from a seller during preliminary (before sending a letter of intent, or "LOI"), as well as full due diligence (after an LOI is in place). Remember that the data in these information systems is often not as accurate as you'd like.

Although not covered in Chapter 3, hiring independent contractors is another inexpensive way to assemble a decently researched target list. Upwork, Fiverr, or other independent contractor sites provide access to service providers that can cheaply assemble prospect lists and research for you. Incredibly, the quality will be roughly the same as the expensive systems (that is, generally mediocre). Still, using a contractor costs a LOT less than paying for access to the so-called premium data systems (like ZoomInfo).

Project Management Systems

The next type of automation you should strongly consider is a project management solution. As discussed above, you should use the project plan template you developed above for each acquisition project. The easiest way to do that and track your team's progress is to use project management software.

Project management is one of the most automated functions out there. Why? Because everyone has their preferred style and methods. Some project managers track every task down to the minute detail. Other project managers keep it high level, like yellow stickies on a whiteboard with lines drawn for project stages or phases. Some want tasks assigned to specific individuals; others prefer assigning tasks to a manager and allowing for delegation. If you get 100 project managers in a room, you'll have at least 40 ways of managing projects. Project management software is similarly and simultaneously diverse, flexible, overbearing, controlling, loose, and only as valuable as the team's effort in using it.

Use the solution that you and your team are most comfortable using. That may be visual solutions such as Trello, the old standard and often frustratingly capable Microsoft Project, or one of the newer online solutions like Mondays or Smartsheet. It could also be as simple as an Excel or Google Sheets spreadsheet. Get one that the team (generally) agrees on, or use the one you dictate they will all use (or else!). And that last parenthetical is not used lightly. Once you start using a project management solution, everyone must use it exactly as necessary. For emphasis, project management solutions are only as good as how well the team uses them.

Virtual Data Room Software

When you get to the due diligence process, you will be buried in documents, materials, data, spreadsheets, and systems access. The seller will provide this impossible collection of stuff in response to your due diligence requests. To avoid premature deal fatigue, get access to virtual data room (VDR) software. You will want something that is built specifically for this purpose. Examples of VDR solutions include DealRoom, SecureDocs, and Firmex, among others. An internet search will show you just how many there are.

If you have found a solid deal attorney or M&A experienced CPA firm as part of your external team, they should already have a solution to use. If you are working with a broker, they likely have one, too. If you can leverage someone else's system, that's great. Otherwise, you will need a VDR solution.

VDRs are essential for several reasons. First, they generally provide a highly structured way of storing materials. That structure can usually be set up to mirror your due diligence requests, meaning that you are not looking all over the place or sorting through random file folders to find the document that answers Question 3(b)(ii) on your request sheet. You go to that request in your VDR, and the seller team will have posted all their documents and responses in context with the request. The seller team uploads the materials that answer that request right into the appropriate request folder. If a single document or spreadsheet answers more than one request, they upload it in multiple places so you don't have to jump back and forth to find things.

Additionally, most VDRs have built-in access controls, meaning that only those people who are supposed to provide or analyze materials can access those request folders. When individuals access the VDR to upload or review materials, the system tracks that access. Many systems also put digital overlays over materials, making it obvious where the document originated should those documents ever get used for a purpose that was not allowed in the NDA.

When a deal is over, VDRs also make that process easier. If the deal closed and you now own that company and all its data, that VDR can be archived and downloaded so you can maintain access as the integration process begins. If the deal falls through for whatever reason, the VDR can be closed automatically and all the data securely deleted, ensuring that you fully comply with any NDA or confidentiality agreement likely signed as part of the deal process.

You will be tempted to shortcut using a VDR using OneDrive, Google Drive, Box, DropBox, or several other online storage solutions. Please don't do it. For one, you have to set it up – each time you start a deal process – including folder structure, access control processes, and any tracking mechanisms (such as folder reports or access reports). It's a time suck you do not need and cannot afford. For two, I have not yet seen a project where one was used well. Access control errors delay progress. Users who create new folder structures outside the folders you built lead to the "Where did you upload that document again?" game that wastes time. And even if you specify to one team or the other that folder access links need to be secure and locked down to specific individuals, they won't. Then you'll have "anyone can edit" links floating around that destroy any semblance of data security.

In short, while it may seem more straightforward and cost-effective (or maybe just "easier"), it is neither. They weren't built for this job. Get a VDR. Shop around, talk to your external advisors who may have one, get demos, choose the one you like the best, and use it religiously for every deal you do. You'll thank me later.

M&A Solutions

Several companies have built "all-in-one" software solutions to automate the entire M&A process. They boast of large institutional customers. They will tell you how they have spent time precisely engineering the solution so it provides everything you need, all under the same hood. And several of them are very good.

But they are also expensive. They are generally priced based on the number of users you allow to log into them (which can be significant, especially if you run multiple deals at once). They may also charge you for the amount of projects or data you store in them.

They can also be a headache to learn. You may need a single headcount to ensure the M&A system is running correctly, that the right people have access when needed, and that the input information is uniformly entered and can be effectively turned into informative reports. When you get a system demo, you will wonder how you will keep it all straight. As often happens with complex, multi-functional solutions like this, you will find that post-demo, but hopefully before you have to pay an exorbitant annual fee, the system doesn't do everything as easily as the sales team told you.

My strong recommendation regarding M&A solutions is this: if your attorney, CPA, or broker has one they are willing to let you use for their projects, and they promise to provide comprehensive support for your team to use the system, then go for it. Otherwise, stick to the systems you already have and know or are designed for and do a great job of handling single processes. The integration that the M&A solutions provide is nice to have but optional.

Using Brokers, Advisors, or Investment Bankers

Another consideration in assembling your team is whether to use business brokers, mergers and acquisitions (M&A) advisors, or investment bankers (who, for the sake of simplicity, we'll collectively refer to as "brokers" in this section). As with most things, deciding to work with a broker requires understanding who they are, how they work, and why you may or may not want to work with them.

First, brokers are service professionals who work for a client. They will be protecting the interests of the client that they are representing. They will only work or advocate for you if you are their client. As we'll discuss in Chapter 11 in more detail, an intelligent broker is <u>absolutely</u> your friend when you are the seller. They'll work on your behalf to get multiple bidders, drive the sale price up, and push to ensure that your time is not wasted by tire kickers and wishful thinkers who lack the resources to complete a deal. They are also highly familiar with the M&A process and can help guide a seller. For a seller, they are critical to getting the best possible deal and handling negotiations impartially. But if you're the buyer? You may be better off finding sellers that brokers do NOT represent.

Let's discuss the two ways you may work with a broker, starting with the potential for a seller to be represented by a broker.

When you are the buyer, and you either find a seller through an online listing (which is most often posted by a broker) or you find a seller that enlists the assistance of a broker, those brokers can quickly become blockers or obstacles to creative or innovative deal structures. Many brokers call it "protecting" or "representing" their client. Still, they may become deal killers by insisting on securing the deal *they* have in mind for or feel most comfortable presenting to their client instead of being open to an agreement that serves their client's interests, no matter the structure. Whether it is due to a belief that creative deal structures are too risky or they don't want the "hassle" of a more complex deal process, a broker will often guide a seller away from non-traditional deal structures. When buying a broker-represented company, you are unlikely to get past the broker gatekeepers if your deal consists of more than cash, a loan, some small measure of seller financing, and some rollover equity.

Working directly with a seller provides a greater opportunity to get creative in selecting various financing options, especially leverage techniques. As a buyer, finding sellers who are not working with a broker may result in a better deal. Be careful, though, and ensure you carefully complete due diligence. Sometimes, a seller is not represented because a broker may have recognized a problem with their business and declined to represent them.

If you are working with a seller who's working with a broker or other advisor, the most important thing to remember is that the broker will be working to maximize the sales price and, therefore, their commission. On this latter point, they may need to be assured that there's enough cash in the transaction to pay at least a portion of the purchase price to the seller AND to cover their fee or commission completely at closing. Again, they will likely be at least suspicious of any deal structure that is financially creative or complex. They often advise their client against it even if it otherwise makes financial sense. This is not meant to suggest that every broker is out for their wallet. I work with a team of M&A advisors that are incredibly focused on achieving the best possible result for their client no matter what that is. But not every broker is the same and you will find brokers who are so focused on their own payday that they end up behaving in incredibly boorish ways.

To illustrate the type of brokers to avoid, in a recent deal I was involved in, the brokers were angry because an issue with money transfers was causing the financing for the deal to fall through. Rather than acting professionally and acknowledging they would have to work to find a new buyer for their client, they became visibly agitated on the Zoom call. They started yelling at the seller team, especially their financier, even though it was clear that circumstances tied his hands. Their client, the seller, was also on the call, and he was not happy that the deal was falling through, either, but he remained professional while his brokers went crazy. Not only was this unprofessional behavior, but it also made two things clear: (1) The brokers were only interested in getting to the finish line to collect their commission on the deal; and (2) They didn't have any other buyers in the pipeline, and they knew they were screwed.

Whether or not you work with a buyer's broker depends primarily on whether you need one because you lack that skill on your team. If you work with one, you must find one that you believe will be more helpful than harmful, that is not overly expensive, and that you believe has the experience needed to find businesses for sale that fit your strategic vision. Use the criteria outlined in Chapter 11 to help you choose a good one.

Brokers most often represent business sellers. Why? Because that's where the money is. When the seller gets paid, money is available from the sale proceeds to pay their commission. Buy-side brokers take their cut right off the top when the seller gets paid. When they work for a buyer, they typically charge some ongoing service fee (typically a monthly retainer) to help find sellers that fit the acquisition strategy.

Depending on your agreement with them and the level of services they offer (i.e., whether they are providing merely search services or whether they are providing full-service deal services, including terms negotiation), they may also charge a "success fee" that is due at closing. Some brokers will subtract their monthly retainer from this success fee, typically a percentage of the total deal price. Success fee percentages generally vary depending on the size of the deal as well. The smaller the deal, the higher the percentage. The larger the deal, the higher the percentage, up to 10% or even 12% on smaller deals. You have to budget this additional fee into the cost of your acquisition.

Some of you may be thinking, "Why, then, do I want to work with a broker?" You have to do the cost/benefit analysis. Consider the level of involvement of your team and how much that costs if you don't use a broker. Don't forget to factor some level of lost productivity into that cost. While your team is working on deals, they won't be doing as much of their "day job." On the other hand, if they have capacity, that cost may not be that high.

If you pay a broker a success fee for finding businesses to buy, you save your team's time and effort and potentially get smarter, faster, and more efficient deals. In this case, the additional fees have to be measured against the savings of not having to leverage your team as much. That said, brokers don't help with integration. They can help shepherd the due diligence process and keep everything moving smoothly, but they will not be the ones stitching the acquired company together with yours. Your team has to do that. And to the extent that a broker shields your team from the nitty gritty of diligence, your integration plans may be affected.

Something else to consider when considering a buy-side broker is that they often have direct access to fully vetted sellers. A buy-side broker may get an additional payout for connecting a seller broker with you as a buyer. You should ask about this possibility when you are interviewing buy-side brokers. If they connect you to a listing they already have, you may get a discount on their buy-side fee because they also get a commission from the seller. That said, if the broker's access to active sellers results in a fast, efficient deal, remember that time is money. You just closed a fast deal because you had a broker with great connections.

If you're on the fence about using a broker for a buy-side project, contact a few of them. Talk to them about their process and get some quotes. Do the evaluation that I describe in Chapter 11. Talk to your team and evaluate the burden of doing acquisitions without a broker. Do the cost/benefit analysis and carefully consider your team's capabilities and the effect that a broker will have on integration efforts. Then, try this: Hire a buy-side broker for the first or the first couple of deals and ensure that your team works closely with the broker through closing. When your team knows what part of the process they are comfortable executing on their own, re-negotiate your deal with the broker to reduce their efforts in the aspects your team will lead and to reduce the success fee accordingly.

Bottom line: brokers are in the business to facilitate the sales of companies. They have experience and connections that you may not have. Leverage as much of their expertise as makes sense for you.

Preparing Your Team

At this point, you should have:

- A strategic acquisitions plan;
- An acquisition target list along with additional information about each target that will help with outreach, preliminary diligence, or both;
- A templated project plan and a project management system to manage that plan;
- Templated deal documents that can be used interchangeably, as needed, for each specific deal;

- Access to a VDR solution for the due diligence process; and,
- A deal team of both internal and external resources specially selected for this purpose.

On that final bullet, I want to emphasize that ***you don't need a huge team to complete this work***. Your core team might be as small as two or three people (lawyer, CPA/tax advisor, and CFO, CRO or operations leader) plus you. Your extended team for the diligence and integration processes might be closer to ten or even a dozen --- it all depends on the size of your company and the work to be done. The point of this chapter has been to help you understand what you will be going through so you can make intelligent decisions, organize yourself and your company, and select your team for the journey ahead.

The next step, and the final step in this Chapter, is preparing everyone for the next steps. If you have assembled all these tools correctly, you have involved your team as you went. You've gotten their input on deal documents. They were involved in the planning and targeting process. They've reviewed the due diligence checklist and understand their role. They helped select systems they were comfortable with and were bought into using. Before you fire the starting gun, though, you should have one last dress rehearsal.

Get everyone in a room or have them participate on Zoom. Walk through each deal team resource, including systems, plans, documents, and processes, preferably in the planned order. Discuss the target list one more time. Ensure they know they are empowered and expected to provide honest feedback during the acquisitions process. Answer questions. Get a thumbs up from everyone.

You're now ready to start conducting outreach to get some deals done. So, get your phones and keyboards ready because the game starts now!

CHAPTER 5 – PRE-DEAL: Initiating Contact and Establishing Preliminary Deal Parameters

Whenever I attend conferences, I am amazed at the people who instantly strike up lasting conversations with people they have just met. Riding along with salespeople when I worked in the software industry, I was also perpetually impressed at how effortlessly the best ones made chatting up a potential buyer look. I have never been that smooth at initiating conversations. I overthink it, and it ends up being awkward. You might want to avoid contacting other business owners to determine their willingness to sell to you. Initiating contact to get the M&A ball rolling can be daunting, but it's also a necessary part of the process. Without those conversations, nothing starts.

But there are ways to get people to, in a way, come to you. To bridge the gap and make them want to talk to you first. To provide upfront value that makes them more open to general conversation with you, even opening the door to more in-depth discussions about their business.

In this chapter, we will talk about how to get people to open up and come to you. We're also going to help you plan and prepare for how to take that conversation in the direction of supporting your acquisitions and getting those owners or critical executives thinking about the potential to sell or merge with you. Once that initial foundation is set and the information that can lead to a deal starts flowing, you'll leverage the rest of this chapter to get the beginnings of a deal in place.

The Challenge of Outreach

Dreading doing the outreach yourself is sometimes valid. But it depends on what approach you use to get in touch. For some methods, the old ploy of having your assistant call their assistant to get something on the calendar can be a great first step. For other methods, having a team member get the ball rolling and then stepping in with a follow-up discussion makes the most sense. Your research in Chapter 4 should help you determine the best approach for various targets. For some of those target businesses, the best approach may be a "chief-to-chief" call. At the end of this section, we'll provide some potential scenarios to help you decide how best to handle outreach to that target. However, it will be up to you and your team to determine what works best for the companies on your target list.

This brings up something that has long irritated me about "lead services" companies. One size does NOT fit all. The number of canned, incorrect, poorly targeted, and carelessly considered communications I get daily tells me that most of these services are hammers who see nothing but a world full of nails. It doesn't work that way. You will get a better response if you take the time to treat your targets with the communication respect you would appreciate for yourself. You are not trying to sell a widget; you are trying to initiate a dialogue about something as serious as it gets in business: potentially buying their company. Would you respond to an un-personalized or a poorly personalized communication about something that impactful? Probably not. So don't do it to the people you want to converse with.

For each of the companies on your target list, determine what you think will be the best approach to contacting them. The direct, chief-to-chief networking approach that might work best for some of them is the, "Hey, I'd love to get on a call and compare notes about [our industry or the local market or insert an issue that affects both of your businesses equally]." You want to start a discussion with them about something impactful for both of you and something that only the company's leaders would have any business discussing. It could be initiated through assistants, or it could be a direct phone call or email. You could meet in person over lunch or coffee or schedule a mutually agreeable time to talk over the phone. Do what makes sense and what you will be comfortable doing.

One of the other highly effective methods for getting people to respond is something I refer to as "business cat nip": Don't ***ask*** for something, ***offer*** something, and see how quickly they respond to opportunity instead of obligation. Here are some possible "cat nip" approaches:

- **Offer a client or customer referral**: "Hey, I like your products/services and think they could be a good fit for my customers, too – can we get on the line and talk about what you offer so I can maybe send you some customers and make them happy with me as well?"

- **Guest blogging**: Especially if your website gets good traffic that could be helpful to them as well, offer to let them do a guest blog post on your website that you promote on your website and via social media with links back to their company website. Then, when they send their article in, call to talk through it and get into the preliminary assessment.

- **Share important information**: Send them some information they may not have. Like a blog post, an article, or information about a vital tax change that might affect them. Maybe they already have it, but they might still thank you for thinking of them, and then the door is open for a follow-up conversation.

- **Become their customer**: Ask if you can become their customer if they are a potential product or service vendor that you like or think could be a good fit for your business. If nothing else, you might gain a great supplier. In any case, you will have a conversation that can venture into preliminary assessment territory. For this one, you will want this to be a chief-to-chief call. If you leave this to your team, or if the other owner or CEO relegates you to their team, you need to bring it back up to the executive level, where you can take the conversation where you want it to go, which is into a discussion about a possible merger or acquisition.

- **Help their customers**: Offer to contribute information or services to their customers that might help or guide them. With this one, be careful that it isn't an obvious ploy to get their customers to come to you or possibly to poach their customers or clients. Look for ways in which your services could complement or supplement their offerings in a way that potentially builds their brand. Remember that if you get a chance to buy them, this plays in your favor and will also accelerate integration efforts.

- **Get creative – what do they need?** What else can you easily and quickly provide that will start a conversation? Once you get a conversation going, you have your foot in the door.

Once you have initiated first contact, you need to know what to cover to get into deal mode as quickly as possible. You will want to have a friendly conversation first. This might be related to one of the above offers of help or on general topics that interest both of you. Don't talk about the weather or the sports scores (unless that is your business). Talk about topics that interest both of you and <u>ask questions</u>. You want them to open up and start to feel comfortable with you. You might tell them how you came to own your business and then ask them how they got there. This is a great technique that breaks the ice and also initiates the preliminary diligence process.

When they start spilling, just let them talk. Remember that people LOVE to talk about their business, problems, issues, and plans – leverage that! Take notes. Decide if their business is a good fit for yours. If they seem to be something that you are interested in, then take the next step.

The next step is probably one of the following:

- Get together for a better talk and see their operations. You could ask for this as part of offering to send customers. How can you make a referral unless you know where you're sending your customers, right?
- If they mention that they have been thinking about selling or getting out, that's an opening. Pounce! "Well, since you mentioned it, I might be interested in buying your business."
- If they are doing something amazing that you wish you could do or that truly impresses you, use that as a hook to talk further.
- Start to tell them about your business and your plans to expand via acquisition. Tell them you are looking around right now to see what kinds of companies might be available to acquire. If you did your pre-call review well enough, this is like putting a wiggling worm on a fishhook – they'll grab at it if they are ready to exit.

Once the conversation becomes an acquisition discussion, dive into your preliminary diligence questions. Remember that every contact won't be a prospective deal, and every prospective deal won't close. When you get into a conversation about their business, use the Initial Screening Questionnaire in this book's Resources section to help you get the information you need in a very discreet and non-threatening manner.

If you do get into a deeper conversation and put the acquisition bait out there or bluntly ask if they have ever thought about selling their business, then, in addition to being prepared to move forward, you also need to be ready for them to say they are not interested in selling right now. If that's the case, DO NOT press it. Go into back burner mode. Keep the relationship going and do things that keep you in their head, but don't keep ringing the bell like a tired traveler at a dark highway motel in a cheap horror flick. You have to let them come around, and frequently, they will after they have some time to think about it. For some businesses, patience after an introduction is genuinely the best tactic.

NDAs – Talks Before and After

Whenever business leaders share information about their company, the specter of leaked secrets is ever-present. Before an NDA gets signed, a prospective seller will likely share a certain amount of information without one. You may uncover enough data for you to decide to proceed. Or you might not. However, once the prospect of acquisition comes up and you start discussing critical deal supporting information, or you start asking about specific confidential details that make the seller feel uncomfortable sharing, expect a request for a non-disclosure agreement.

I often get asked whether to agree to use "their" form or insist on your own. Generally speaking, most NDAs cover the same stuff. But if you can get your form out first, it saves you from paying your attorney to review it for you. This is why you get all your documentation in order before you pick up the phone or the keyboard.

A sample **Non-Disclosure Agreement (NDA) Template** is included in the Resources section that is simple to fill out and use. It provides for maintaining confidentiality and ensures noncompetition and non-solicitation (meaning neither of you will go after the clients/customers, employees, or contractors of the other).

Remember that until someone asks for one or offers one, they don't help anyone. As the buyer, if you can get information without executing an NDA, then don't. You must comply with its terms and conditions as soon as you sign one. If they ask or seem uncomfortable sharing more information with you and you still need more, offer to send your form. Remember that, as the buyer, the seller worries about sharing too much information with you. Put yourself in their position and be the buyer that shows empathy to their concerns. Follow through on your obligations. Secure the data and make sure they know you are securing the data. Trust is one of the most valuable bargaining chips you will have when it comes time to negotiate the deal.

The "polite" way to submit the NDA once the offer is on the table is to send the document over by email and offer to let them review it before you send it for signature. But being polite often takes time and may result in the seller (or their attorney) deciding to either want changes or to use their own. That means time and money for you. The more aggressive (or, shall we call it, "confident"?) way to get this done is to immediately send it for electronic signature (on DocuSign, Adobe Sign, or the like). They can still get the document reviewed by their attorney, but the fact that it is signature-ready may help expedite the process. The goal is to make it easy for them to sign and move on to the next step.

One last question that frequently comes up, especially from sellers, and that you, as the buyer, need to keep in mind is how enforceable they are. Sellers are going to be wondering, "Am I protected?" As the buyer, you should know the answer to that question so you can keep your team on the safe side of the law as they review and work with materials and information. The test for enforcing an NDA is the risk of damage to one's business. Suppose a business owner who shared data or materials under an NDA feels their confidential information is being misused. In that case, they can get an injunction to prevent you from using their materials to harm their business. If they already did and feel like they have already been damaged, they can sue you for the damages they allege you caused your business.

Your attorney can tell you more about the responsibilities and enforceability of an NDA, but if you treat that seller and her information like you would want a buyer to treat your information, you will be okay. As discussed in Chapter 4, using VDR software helps assure the seller you are diligent with their information and have systems to protect that information and prevent disclosure or misuse. Once you get to the point of having an NDA in place, put it to use.

Preliminary Diligence & Valuation

Chapter 4 referred to the **Initial Screening Questionnaire** in the Resources section. When calling or meeting with a prospective seller, use your customized version to help gather the information you need to evaluate the target and confirm it fits your strategic goals and targeting criteria.

Remember that preliminary diligence requires just enough investigation to make you want to move forward. You need some foundational data points to confirm that the other company fits your acquisition strategy. You also need enough information to determine an "offer" or "bid" valuation. You do not need the level of information required to finalize or close the deal. The initial screening questionnaire has been designed to get you to the offer point confidently, but not further.

If a company wants to hear your offer, the next step is to determine what you think the company is worth. Two things to remember as you are coming up with this "offer valuation":

(1) **Remember this is for an "offer" or a "bid"**. Your valuation is being assembled for an offer or an initial bid (where a "bid" applies to the situation where you compete against other potential buyers). It may or may not be the final deal price. Once you complete due diligence, you will firm up this amount, evaluating the whole business, not just the preliminary information. Your offer or bid has to be subject to change based on actual data. We'll talk in a minute about how you make sure that is clear in the Letter of Intent (LOI).

(2) **Past performance beats future potential**. Always base your valuation on performance and NOT merely potential. Many buyers get starstruck with the potential of a target company. They get excited about what it can do for them, the people they get, the equipment or technology they'll have access to, the additional customers or product lines they will obtain, etc. While many of these assets are valuable, and factoring them into your bid may make sense, remember they may or may not play out how you think they will. Make sure that when you go through the valuation process, you are conservative and smart in doing the valuation. It is far easier to increase your offer than

try to decrease it after you get the seller all excited about a big payday. The latter is one of the fastest ways for a buyer to kill a deal.

Doing a business valuation in this early stage can be nerve-wracking. You don't yet know what you don't know. You will be developing a bid valuation based on incomplete information. The best way to work through this is to first familiarize yourself with the **Valuation Multiple Sources** list in the Resources section. See what kind of information is used for performing that valuation. Ensure your version of the Initial Screening Questionnaire covers all the questions you need to ask to get the information you need for a solid valuation. You will likely need to determine whether you are working with an SDE or an EBITDA owner. You'll need to know what those numbers are. You'll want to understand what their upcoming budget looks like and what their revenue projections are for the next six to twelve months.

If you are working with a buyer's broker, they can also provide access to data sources to help with valuation. They may even have a canned service offering to do a valuation opinion for you, or if you'd rather have someone else do the valuation, make sure they include valuation services in your agreement.

Your bid valuation needs to get you to a signed LOI. It's subject to change, and you may adjust it (or the deal structure) after you complete acquisition due diligence (as described in Chapter 7). If you are pressured to come up with more to make the deal, remember this:

(1) **Going up is easier than going down**. Going down in price after you have a signed LOI is hard and often kills

the deal. Don't exceed a number you are comfortable offering. If the seller is asking for more, make that part of the offer contingent on the seller being able to prove (during due diligence) that the additional value they claim justifies the higher valuation.

(2) **Shift the burden**. Before you adjust your price, if the seller truly believes the business is worth more, walk them through your valuation process and have them tell you where they think you're wrong. Maybe you left something out. If something is undervalued in your calculations, they will tell you. If the additional element is subject to verification, use the validation approach described in #1.

(3) **Shift the structure**. If the price is more than you want to pay, remember the adage, "My number, your terms; your number, my terms." If they want more, you may want to change the deal structure. If you need to pay more for potential, insure your additional payment by structuring it as an earnout, where the additional amount is paid over time based on performance. We'll talk a lot more about deal structure and financing elements in Chapter 6.

(4) **Be prepared to walk away**. If the seller still pressures you for a price outside your comfort zone, you may need to walk away from the deal.

Your offer or bid may be presented in writing or verbally. When you send that offer or bid, tell the prospective seller that it is merely a bid or an offer and that if they accept it, you will be moving forward with a formal LOI and diligence. You may go back and forth a couple of times before you hit a preliminary number and structure that's comfortable for both the seller and you. The seller must be clear that arriving at an initial offer differs from a final offer. Everything is subject to due diligence.

Deal Structuring for the Letter of Intent (LOI)

Consider how you will structure the deal as you negotiate your offer or bid. Keep the adage about price and terms in mind as you do this. You should have also thoroughly reviewed our discussion on deal finance in Chapter 6, as well as some of the additional techniques listed in the Resources section. You may even want to develop a tentative plan for structuring each deal per target during the planning process we covered in Chapter 4. Have a list of the likely methods you are comfortable using for a deal. Consider each of them when assembling an offer or a bid for a given target, and then assemble the deal structure as part of the offer.

An important step when putting together the deal structure for your offer is understanding what the seller might be willing to accept before you finalize your offer. You want to structure a win-win deal that is easy for the seller to accept. To do that, you must ask questions that reveal what the seller might find acceptable. Find out what they intend to do after the sale is closed. Will they retire – and do what? Go on a trip? Move to a foreign country where their fortune will last the longest and buy the most? Invest in a new company or property? The more you know how they will use the funds, the better you can leverage the various deal finance techniques and structure a deal that gets you the company, and the seller gets what they need to be happy.

It's often not about the total price. Terms matter. Significant cash at closing could be a terrible tax decision. Structuring the deal to have ongoing payout points might be an excellent option for some sellers and simply unworkable for others. You also need to know whether they want to or are willing to stick around and continue to run their portion of the company for a while longer. You need to know how long that "while" is.

You may also leverage the information to develop a basic and advanced deal structure. The basic deal structure might be as simple as a price, with terms "to be determined." An advanced structure could be a full deal stack, including loans, notes, equity, consulting or employment contracts, etc. Make your offer as basic or advanced as necessary for the target seller. A basic offer with an offer amount and TBD terms might also help ensure it's clear that nothing will be fixed until after you complete due diligence.

Realize that you don't know what you don't know. You cannot possibly build a perfect deal at this point in the process, but you should know approximately how you want to do it so you know what to look for during due diligence and for the final deal.

The last thing to remember when developing your offer structure is whether the seller uses a broker. If they are, they will likely insist on knowing as many deal particulars as possible before allowing their client to proceed to due diligence with you. Seller's brokers may also have some standard terms with which they are most comfortable and may advise or even convince the seller not to go with anything else. This usually takes the form of telling the seller, "Don't worry, we can find a buyer that will give us the price you want on our terms." Getting past this will require you to work harder on your offer and may take some deal finance tactics off the table. If the seller's business is important enough to your strategy, work through it. If it's not, either find one without a broker or with a more enlightened one.

Merger or Acquisition or Something Else?

Most deals are either acquisitions of assets or equity:

- With an **asset acquisition**, you buy all, substantially all, or only some of the seller company's assets and nothing more. You may also assume certain liabilities or obligations of the company. Still, you do not assume any other obligations or issues that may have occurred before the closing date (such as responsibility for lawsuits or regulatory issues). Asset sales are chosen most often because of how they leave the baggage of a company behind, as well as because of the stepped-up cost basis for tax purposes.
- With a **share purchase**, you purchase all the ownership shares ("stock" for corporations, "membership units" for an LLC) in the seller company. This means you get the whole thing, including all warts (liabilities, past issues, and other problems). This may be the only way to do a deal, especially for companies that have restricted licenses that are issued to the company and cannot be transferred (e.g., aviation and cannabis industries).

To determine which type of deal you will be doing, make sure you understand what you want to buy and whether there are particular aspects of the company (such as licenses) that make a share purchase the only way to structure the deal properly.

Note that the difference in whether you will be doing an asset or share purchase also materially impacts the due diligence process. Your team may be looking at significantly different facts and information based on whether you are just buying certain assets or you're buying the company and all its collected history across every aspect of the business. If you are unsure which purchase method you will use, consult with your deal attorney and tax advisor BEFORE making an offer on the company. How you buy the company also impacts what you should pay for it and how the deal should be structured.

Above, we also mentioned the tax advantages of the stepped-up cost basis for the acquisition that comes with an asset purchase. If the target company is either a C Corporation or an S corporation, you can make a share purchase and still enjoy the benefits of a stepped-up cost basis. This may be accomplished using a tax code provision known as a "338-H-10" election, so named because it is based on Internal Revenue Code (IRC) section 338, sub-paragraph (h)(10). During your preparation efforts, identify companies you may want or need to acquire using a share purchase. Then, consult your tax advisor and deal attorney about using a 338-H-10 election for those particular targets.

One more often overlooked or ignored possibility is doing a merger instead of an acquisition. With a merger, your company essentially combines forces with another company. A merger usually results in either your company or the other company surviving, and the non-surviving company is folded into the surviving company. A merger might also be accomplished by forming a new company and merging both companies into that new entity. Mergers are an excellent way for similarly sized companies (and sometimes differently sized companies, but where one has a key asset that the other needs) to combine forces.

The biggest issue with a merger is usually ego. One company feels like it MUST take over and control the other. And if they can't agree on who the alpha dog is going to be, then they start to talk about "joint ventures" and "partnerships" (which is discussed more in Chapter 10, including why they are often not the best approach for companies that are looking to grow by acquisition before selling), or they go back to working alone and potentially being even fiercer competitors.

A good merger usually involves two similarly sized or highly symbiotic companies. The two companies' leaders must determine how best to work together, how the executive or management teams will be restructured after the merger, and devise a plan for how the two companies fit together synergistically. Honesty is critical.

Especially for small and medium businesses (SMBs), mergers are rarely proposed by a broker or M&A advisor. Getting paid for a merger as a broker can be somewhat problematic, especially as multiple brokers or advisors may be involved. That doesn't mean it never happens because it does. But it takes a lot of precise machinations and a significant amount of coordination, communication, and resolve to get it done.

One last thing to note about mergers is that they require different documentation. If you get into a merger, your deal attorney must advise you on planning and completing the intended merger, as this book does not cover it.

Nailing the LOI

At this point, you found a company interested in selling, that you are interested in buying, and for which you have negotiated a deal price and structure. You are now ready to get it on paper and dive into the formal deal process.

The Resources section includes a **Sample Letter of Intent (LOI)**. Note that the sample letter is a template that must be edited and adjusted to fit your circumstances. The template is annotated (the sections highlighted in gray), so you know how to fill it in and what to include in the letter. Everything in the template is not mandatory, and some sections may not make sense based on the specific circumstances of your deal. As part of the preparation process in Chapter 4, you should have reviewed this document and worked with your attorney to get it ready for use. Now is when you put it to work. Here is how you work through each section of that LOI to ensure you nail the LOI every time.

- **Opening Paragraphs** – Make sure you have the parties straight. You must discover all this during preliminary diligence. Don't send an LOI to a company if you haven't determined and confirmed where they are located, what governmental jurisdiction they were formed in, and who the authorized signatory is for them.
- **Background and Deal Basis** – Describe what has been done that led to the terms and conditions described in the LOI. This is based on your outreach and preliminary diligence. Don't overthink it. The purpose of this section is to provide some facts upon which the rest of the letter is

based in the rare case that someone decides to file a lawsuit over the LOI.

- **Purchase Price and Deal Structure** – Read the instructions in the template. Remember that this is where you lay out the deal that you have discussed with the seller so far and that the specific nature of the deal may change (either in structure, amount, or both) before closing. Ensure that the language is clear that the price and structure may be modified prior to close based on the outcome of the formal due diligence process.
- **Other Descriptive Sections** – The Real Estate, Inventory, Financing, and Employees sections describe the assets or specific aspects of the deal that you understand for purposes of the LOI. This helps define the overall deal and makes constructing the purchase agreements and other necessary closing documents more straightforward for the attorneys (i.e., helps keep legal costs down).
- **Due Diligence Process** – Don't ask for more time than you think you need, generally 30, 45, or 60 days. Ninety days is extreme, especially for SMBs. The process can be quick if you are prepared and the seller is ready to sell. If you have an undecided or underprepared seller, getting information from them may take longer. The template provides for automatic extensions. The seller's attorney may take issue with that. Be prepared for some jockeying. The better prepared you are, the more professional you will seem to the Seller, and the more likely you will avoid issues with the LOI.

- **Pick a Closing Date** – Make it the last or first day of a calendar month. That is easiest for accounting purposes. If you pick a different date, make sure it makes sense under the circumstances of the deal, and discuss it with your internal and external accounting team members FIRST.

- **Exclusivity** – You want the seller to work exclusively with you. Sellers may try to eliminate it. Don't let them because their ability to work with other potential buyers simultaneously gives them leverage and puts additional pressure on you. You are about to spend significant time and money doing due diligence. That expense should buy you time to not compete against other potential buyers. Additionally, the best time for the seller to weigh their options is BEFORE the LOI, not after it.

- **Legal Boiler Plate Provisions** – Have your attorney review the template to ensure it matches what they believe you need. They may recommend additional or different language depending upon the jurisdiction you operate in or based on the specific nature of the deal. **DON'T DO A LOI WITHOUT HAVING YOUR LAWYER LOOK AT IT FIRST**. Even though LOIs are typically non-binding, that doesn't mean they never result in a dispute and litigation. Make sure you have it right. Realize also that even after you do this for one acquisition, the next time you prepare one, get it reviewed again. The template gives you a starting point and allows you to do most of the work but get the legal review anyway. Don't take shortcuts.

- **Transaction Team** – This section is optional but beneficial. Communication during a deal is essential to keep the deal moving and to form the relationships that will make integration smoother.

One final issue I see frequently in LOIs that often gets ignored but shouldn't is neatness. A LOI represents and is a reflection of you and your company. Have some pride and make sure it looks professional. Put it on letterhead. Do spell and grammar checking. Don't have paragraphs with weird spacing, indents, or dangling bullets. All of that says you are a sloppy buyer. Be a professional buyer. Professional buyers have the advantage in any negotiations that may be required.

Once you have your LOI nailed, send it over for signature. You may have to do a couple of rounds of editing, but that is a good thing: getting the LOI right simplifies deal documentation and closing. Once the LOI is signed, it's time to move on to the detailed deal process that we'll cover in Chapter 7.

But before we get there, the next chapter shifts our focus to deal finance options, a critical aspect that shapes your due diligence process. While it was instructive for the preliminary diligence and offer/bid process, it's crucial for the due diligence and closing process. Understanding financing avenues is vital for long-term success and can make or break your acquisitions journey.

Title: Make a Difference with Your Review

Subtitle: Unlock the Power of Generosity

"The greatest use of a life is to spend it on something that will outlast it." - William James

Hey there, fellow business trailblazer! You know, people who give selflessly tend to lead more fulfilling lives. They're the ones who make a real impact. And since we're on this journey together, I'm all in for making a big splash.

So, here's a little something I need your help with...

Would you be willing to lend a hand to someone you've never met, without expecting anything in return?

Who's this mystery person, you ask? Well, they're a bit like you. Eager, ambitious, and on the lookout for that golden nugget of wisdom to propel them forward.

My goal is simple: to make the art of business acquisitions accessible to all. Everything I do, every word I write, is driven by this mission. But to truly make this happen, I need to reach... well, everyone.

This is where you come in. We all know that book reviews are crucial. They're the signposts that guide others to make informed choices. So here's my humble request on behalf of a hardworking SMB owner you've never met:

Please take a moment to leave a review for this book.

This small act of kindness won't cost you a dime and takes less than a minute, but it could be a game-changer for a fellow SMB owner. Your review has the power to:

- Help another small business thrive in its community.
- Support an entrepreneur in their journey to provide for their family.
- Create meaningful employment opportunities.
- Transform the lives of clients and customers.
- Turn a dream into reality.
- Feeling that 'good vibes' sensation already? Great! Here's how you can make it happen:

Just scan this QR code to leave your review:

If the thought of helping a fellow SMB owner brings a smile to your face, then you're definitely my kind of person. Welcome aboard!

I'm super excited to continue guiding you towards achieving your business goals with proven strategies and tools. The next chapters are packed with insights you're going to love.

A heartfelt thank you for your support. Now, let's dive back into our adventure.

Your biggest fan, Ed Gehres, Jr.

P.S. - Remember, sharing valuable insights makes you an invaluable resource. If you believe this book can help another SMB owner, why not spread the word?

CHAPTER 6 – DEAL FINANCE: Know Your Options Before You Dig Into Diligence

I enjoy cooking. I learned how early in life from my parents, each of whom had a different style and a different set of recipes. As many professional and amateur chefs know, creating a fantastic meal isn't just about using the most expensive truffles or the finest cuts of meat. It's about how you combine them to create the perfect dish. I've sometimes pictured myself at one of those master chef competitions with seemingly every ingredient I might need ready to combine into a judge-wowing dish.

The LOI is the recipe for a deal in the world of acquisitions. But great M&A chefs know that the actual cooking starts during due diligence. They know how to improvise and adapt that recipe to create unique, original, and winning deal structures that produce wins for both the buyer and the seller.

This chapter will teach you how to understand and blend various financial ingredients—cash, seller financing, asset leverage, and more—to structure a win-win deal for both parties so that you are appropriately prepared for the due diligence process. Because in acquisitions, as in cooking, the right mix determines deal success or failure.

Cash is Still King – But What's the Right Amount?

In Chapter 5, we talked about discovering sellers' motivations. What are they planning to do? Why do they want or need the money they are asking for? What are they going to do next? Retire? Start a new business? Go on an extended vacation and then decide? How will they use the money they get from selling their company? Know that the truth is that most entrepreneurs can't stay away – they'll start something new soon after they sell "their baby" and will continue to work because they love what they do.

Regarding the cash the seller receives at closing, your mission is to determine or discover how much they <u>need</u>. Most sellers (especially ones represented by brokers) will tell you they want the entire purchase price in cash at closing. What you want to give them in cash at closing, and what may be the best tax option for them, is likely significantly less than all.

How, then, do you determine the cash "sweet spot"?

First, ask the seller what they want to take away from the deal if you cannot pay 100% cash at close. What is the minimum amount they must put in their pocket at closing? Typically, they will ask for a number close to the whole amount anyway.

Next, lowball them with a promise that less at close could mean a more significant total package – "What if I could only come up with [20% - or whatever] of the amount at closing, but you ended up with a larger overall purchase price for the business?" As you are iterating on this process, continue to ask the core question: "How will you use that money?" or "Will that be enough to enable you to do [whatever it is they think they want to do]?".

For the latter, you may even paint the picture for the seller so they can see how the deal serves their purposes: "So – you want to retire to the beach in Costa Rica. I looked at the cost of living and real estate in Costa Rica, and it looks like you could get an amazing home right on the Caribbean coast for $XXX. Living costs there are around $XXX per month living in a place like that. If you had another XX% on top of that, you'd need $YYY/month. And moving costs to Costa Rica from [wherever the Seller lives now] will cost you about $AAA. If I provided a down payment of $ZZ, you would have enough for a house, the move, and all living expenses pre-paid for X years. Plus, with the seller note [or profits interest or whatever], you'd also get another $BBB on top of that amount every month."

Most people don't solve their own problems. If you do your homework based on their plans and paint the picture of how your offer will enable them to do whatever they want after they sell, you will be in a great position to close the deal on your terms. You will be helping them to see the solution without actually having to create it.

From your position as the buyer, the deal structure must fit within what you can afford for the company. It needs to provide insurance against the possibility that the company underperforms post-acquisition. While cash at closing may be actual cash from your resources and loan proceeds (and we'll talk about seller financing a little later), wherever it came from, it is an obligation that cannot be avoided. You must make the loan payments, which cannot negatively affect the operation of the combined company.

That said, if you have enough cash and can justify the loan payments to cover bank contributions, meaning you can pay all cash at closing and have no lingering obligations to the seller, then there is no issue with doing just that. It eliminates the need to determine how much cash to pay at closing. But remember to consider the additional reasons why you may only want to pay some cash at closing, which will be covered throughout this chapter.

Another Thin Line Between Love and Hate (Banks and Other Lenders)

Most of the funds you use for acquisitions will likely come from loans. Especially for SMB-sized acquisitions, one of those loan sources will be what is known as an SBA loan. The SBA is the federal government's Small Business Administration for those unaware. The SBA does not actually loan money. Instead, it provides loan guarantees so commercial banks feel secure lending money to SMBs. Said another way, most banks won't lend an SMB money unless the SBA gets behind it and guarantees repayment.

The SBA guarantees between 70-90% of the loan depending upon the loan size and program, plus several other, primarily political aspects, such as whether women or veterans own more than 50% of your company. As for the un-guaranteed 10-30%? Unless the target business is flush with hard assets that fully cover the loan amount, expect the bank to require you to pledge all the equity in your family home, your retirement account, and your firstborn child as collateral (or, at least that is what it will feel like). Hence, they essentially risk nothing in lending you money. If you fail to pay the loan, they can take it all.

If you sense that I think this program has some issues, you've sensed correctly. If our tax money covers defaults anyway, why can't the government be a direct lender and contract out the servicing of those loans? Why wouldn't the SBA put together programs to help SMBs be successful with those funds (and put thousands of consultants to work in the process) rather than simply accepting the high failure rates of small businesses and the tax expenditure resulting from those failures? The answer is politics, big banks and other lobbyists, and money.

The SBA has other programs[3] that cover other purchases, including a commercial real estate loan program, that are also good. They have programs to connect you with grants and private investors, but those programs are so poorly developed that I have yet to meet anyone who could take advantage of them. In my opinion, the SBA doesn't help small businesses nearly as much as they help banks.

Criticism aside, because of the government's largesse and pandering to banks, you may be able to obtain a loan for acquiring another company, especially if you have at least 10-20% to put as a down payment, your business is profitable, the target business is profitable, you have a solid plan for how to integrate and leverage the acquired company, and your business (and you personally) have good credit. For your acquisitions, to the extent you can use these programs to get funding, be thankful, and leverage it as much as needed.

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[3] U.S. Small Business Administration. (n.d.). Funding programs. Retrieved January 8, 2024, from https://www.sba.gov/funding-programs

Your CPA and banker will be the best resources to know whether an SBA loan works for a given acquisition and how best to proceed if it does.

In other words, if you have a solid plan, good credit, have done the math, and it's beyond obvious you can make the payments, then you should be able to get a loan. The interest rates for SBA loans tend to be somewhat better than conventional loans (unsurprising given the guarantees, personal guaranty requirements, and highly mitigated risk), and they are almost always better than private money lenders (whom we'll discuss in a moment).

Here are some other ways to obtain financing from conventional banks and credit suppliers:

Conventional Lending / Lines of Credit – If you have a good (and preferably lengthy) relationship with your bank and great commercial credit, go directly to them. They may still push you toward an SBA loan. If you are purchasing a new business with solid income and hard asset collateral to secure the loan you get from the bank, you should be able to get a bank to provide you with the money you need to complete a deal. Realize you will still need to come up with between 10% and 30% of the total purchase price.

Credit Card Stacking – Many people have heard the story about how legendary film director Spike Lee financed his first Hollywood movie by maxing out a set of credit cards. You can do the same thing to help you buy a company, potentially financing the down payment on credit cards. New business credit cards often provide 12 months at 0% interest, giving you cheap credit, albeit for a finite period. You can then access those credit lines for a small fee using a service like Plastiq. Several companies exist to help you sign up for these credit cards as well. The benefit they provide is knowing which programs are the best deal with the most uncomplicated application process. They exist to get tens or even hundreds of thousands of dollars in credit cards set up for businesses or entrepreneurs within six to twelve months. I've had clients work with them and report good results with minimal effort.

Private Money Lenders – Also sometimes lovingly referred to as "loan sharks" or "leg breakers," private money lenders are everywhere. If you do a web search for them, be prepared to suffer with every ad on your browser and social media accounts to be for private money lenders forever after. No matter what rate a private money lender advertises or even promises you, be sure to do the math and ask plenty of questions. They are absolutely the most expensive money you will ever get, and once you contact them, they are relentless about getting you to follow through on your application.

Regardless of where you get financing from, be sure to understand the following aspects of loaned money:

- **Interest rate** – how much is the money going to cost? Beware lenders that don't follow the standard annual percentage rate (APR) advertising scheme. You will see plenty of ads for rates as low as 1% (as of the date of this writing), which is NOT the APR. It's often a monthly or, worse, daily rate that translates to 12% APR or more.
- **Term** – how long will you be repaying the loan? Look for the most extended term available with no pre-payment penalty (or at least no penalty after one or two years). I

know this will make the hair stand up on the necks of some financial folks because longer terms mean more interest paid and, therefore, more expensive loans. But when buying a company, you want the payments to be as low as possible during integration and maybe even the first full year or two. Other than low interest rates, an extended term is the other method of lowering the monthly cost of borrowed funds.

- **Monthly payment amount** – know how much the money will cost you each month and make sure that the income of the business you are buying will cover that payment, plus provide some ability to continue to grow or reinvest, AND add to your total bottom line. If you're unsure of how to do this, that's why you have a CPA on your deal team.

- **Pre-payment penalty** – if you pay the loan off sooner than the planned maturity date, be sure you won't get stuck paying a penalty. Sometimes, the penalty period can be negotiated to be less than the loan's maturity (i.e., you only pay it if you pay off the loan in the first year or two). But frequently, the penalty lasts as long as the loan. Loans with no pre-payment penalty typically come with up-front fees. Remember, the bank will always get "theirs".

- **Fees** – understand what fees you might be paying for the loan. This could include origination fees, documentation fees, service fees, application fees, and pre-payment penalties. You should also be concerned with late payment and refinancing fees (these fees apply if you refinance the loan before maturity). Some fees come out when the loan is first written. Sometimes, they can be "rolled into" the loan or financed, which means the loan principal increases by the fee amount, and your monthly payments increase proportionally.

Selling Seller Financing

Seller financing supposedly presents a significant amount of risk to the seller. That risk is that the buyer runs the business into the ground and cannot pay their debt. But that is "seller financing for suckers." Smart seller financing provides appropriate security for the seller and enables them to keep an eye on the business and step in or have someone step in on their behalf if the company is being run down. It gives them the right to foreclose on the business and take it back if the payments are not made or other problems occur that put the debt at risk. Brokers or advisors who tell sellers they are taking on significant risk if they agree to seller financing are not thinking about how a clever attorney can craft seller financing to give the sellers all the power they need to protect themselves from buyer default. Most brokers I know insist that anything more than 20% is a horrible deal. That's an incorrect oversimplification.

As the buyer, you will want some portion of the deal to include seller financing. I have known investors whose starting point was 80-90% seller financing. They didn't always get that, but they were frequently the right kind of buyers and managed to get a decent part of the deal financed by the seller most of the time. Opening negotiations with a solid purchase price that included a high proportion of seller financing established a foundation for negotiations.

You must understand why a seller should also want a portion of the deal to include seller financing to convince them to include it in the deal structure. If you start with a high enough purchase price, you should be able to dictate the terms. Remember: offering the asking price opens up the "your price, my terms" argument. And once you review the following reasons why this is a beneficial deal structure, you will understand how to sell it to the seller (and her broker).

First, interest means more money for the seller. The total consideration paid for a deal that includes seller financing is more than the cash amount of the agreement. Why? Because seller financing is not free. Like a bank, a seller who finances the deal will include interest on that loan. However, instead of your money going into a banker's pocket, the money goes right to the seller. I know this is basic, but on a $1,000,000 seller note at 5% APR interest with a 10-year term, the seller will collect about $273,000 interest.

Second, seller financing might help lower the tax bill. The IRS generally treats payments on a seller note like an installment loan. Taxes on the principal are treated like capital gains, and the interest, while treated as regular income, is only due as that interest is earned, helping to keep that additional income in a lower tax bracket for the seller. Plus, the capital gains tax the seller may have paid at closing if they accepted an all-cash offer is spread out over the life of the loan. That opens the door to using write-offs in future years to help offset that tax burden, offsets they would not have had at closing for an all-cash deal. When making an offer and including seller financing (which should be all or most of the time), have your CPA or tax advisor do a quick calculation of the tax savings for the seller. Use that to get the seller to buy into the concept of seller financing, and it will make negotiations smoother. You will also look like a savvy buyer with the seller's best interests at heart.

Third, while the risk of the business declining during the buyer's tenure is real, the seller can and should incorporate reporting, oversight, and other protections into the seller note and security agreement used for the deal's seller financing. As a professional buyer, have your attorney draft these documents as part of your deal documentation package. Ensure that your attorney builds in the types of seller note protections you would want if you were the seller. Then, walk the seller through these protections so they understand how they will be protected with seller financing. The more they understand how those provisions protect them against default or spoilage of their company's assets, the more likely they will agree to a high level of seller financing.

Sellers often need to be told how seller financing provides them with security. For one, the security agreement will include a lien against the assets they sell you. Naturally, this means you must be mindful of the assets you are keeping and what you will dispose of or resell after closing. You either cannot sell or must get permission before selling any asset covered by a security agreement. A seller may also ask for a personal guaranty or an additional security interest against certain of your company's assets. Remember to consider what you would ask for if you were the seller. Be proactive and preemptive about getting those protections ready to use in the negotiation process.

Another tactic that is often easier with seller financing than with bank financing is the concept of a balloon payment. Balloon payments defer the repayment of a significant portion of the principal to the maturity date or the last payment of the loan. The practical effect of a balloon payment is to lower the monthly payment on the loan. For example, the $1,000,000 loan at 5% interest for ten years would have a monthly loan payment of $10,607. If that same loan had a $500,000 balloon payment, the monthly payment goes down to $7,400, a savings of over $3,200 per month. This results in more interest being paid over the life of the loan (additional benefit for the seller) but also alleviates some of the business's strain in making the monthly payment on the note. That reduced strain gives the company some leeway, especially during the difficult early days of integration with your business, to build up business revenue and profits that help ensure the loan gets paid. That, in turn, mitigates some of the risks of seller financing – less strain on the business means it is less likely to default or pay late. Most of the time, a bank won't offer a balloon. But a seller can and, appropriately presented, absolutely should agree to it.

I have found that balloon payments sometimes scare buyers. Why? "What happens if I get to the end of the loan period and I don't have the balloon payment?" Simple: you refinance the debt and kick the can down the road. But if you have set the terms for the seller note up smartly, you should never worry about it. Why? In five or seven years, you will have acquired enough businesses and grown your overall business so large that the debt will be erased when you exit.

Sellers may also have the option of reselling the note. This enables them to get cash for the note rather than waiting for it to pay out over time. Suppose a seller later invests in a new business or property and needs cash from that note. In that case, there are companies that will acquire the note and collect the payments in return for a discounted payout of the total note value to the seller. For example, suppose the seller had the $1,000,000 note above and decided to sell the note after one year of payments. At this point, the note's remaining value would cover the remaining nine years of payments, or around $1,145,500. The seller may be able to sell that note at a 10-20% discount and still pocket around $920,000-$1,000,000. Including the $128,000 in payments from year one, even at the 20% discount rate, they STILL received more than they would have if they opted for all cash at closing. While the ability to sell a note always depends on the actual circumstances, this is still a viable option available to a seller that should make seller financing more attractive.

Two more powerful reasons exist to convince a seller to agree to finance the acquisition of their company. The first is that their final recourse for your failure to pay your debt is to foreclose on the loan. They can take their company back, or at least enough of your company to make them whole. If they have a strong enough seller note and security agreement, they will know that the business is struggling before it defaults. They can step in and fix it and continue to get paid at *your* expense.

But reason number two is this: Why on earth will you fail? You have a strategic plan for phenomenal growth through acquisition, resulting in an exit that will eclipse any debt you take on to buy their business. You are already a business owner looking to build your business, not tank it. The level of risk selling to an existing business owner is WAY less than selling to a buyer with no other business holdings. You are trying to buy the business because it fits tightly into the overall business you are trying to build. As the buyer, YOU make the option of seller financing less risky.

Bottom line: Don't shy away from seller financing. Even a broker-represented seller can be talked into agreeing to it. Seller financing should be one of the first tools out of your finance bag for every company you look to acquire.

Getting Creative and Smartly Leveraging Leverage

We've now covered loans from banks, private lenders, and the seller, with the last of these three being the most favorable. Those are not, however, the only places you should look to finance a deal. This section is intended to inspire thinking outside the box. While this is not an exhaustive list of creative finance techniques by any measure and should inspire and help owners think creatively about how they can make acquisitions even without a lot of cash in the bank, it does guide some of the deal financing techniques you should always be thinking about and considering every single time. Realize also that this section does not provide complete descriptions of each tactic. You may need to use some imagination to apply a given concept to the specific deal you are working on. I'd also recommend sharing this entire chapter with your team (especially this section) so they can think creatively as they work through due diligence.

Carve-outs. If you don't need or want an asset, carve it out of the deal and use that carve-out to lower the purchase price for the business. For example:

- The company may have a set of equipment that you already have, and you are primarily interested in their customer list. Buy the customer list and let them liquidate the equipment.

- The seller may have intellectual property rights (patents, trademarks, copyrights) you don't need. Don't buy them – carve them out of the deal. OR, buy them and then immediately sell them or find other companies that will pay for a license to use them, provided that is not detrimental to your combined business.

Post-Close or At-Close Asset Sales. Remember that equipment or the intellectual property rights you didn't want or need above? Another way to pay for a deal is to find a buyer for that equipment and then sell that equipment to another buyer at or immediately after closing, providing you with additional funds to pay the seller.

Leveraging Real Estate. If real estate is part of the deal, you have a few options for how it might fit (or not fit) into the deal:

- Don't buy it; lease it. Make a deal with the seller to keep and lease the premises to you instead.
- Find a third-party company to purchase the property for you and then lease it back at a reasonable rate. The seller gets paid at closing, and you can still access the facilities you need without buying the property.
- Work out separate seller financing for the real estate. The seller might be comfortable with this, considering real estate is an easily foreclosed, tangible, appreciating asset.
- Get a conventional loan to purchase the real estate. Banks love hard assets and are more likely to loan money against

a foreclosable asset than against an uncertain income stream from a business.

Assuming Liabilities. Businesses often have a set of debts that they generally have to satisfy from sale proceeds at closing. Those past debts may be at better interest rates than you can get today. If that is the case, you should assume those debts and reduce the purchase price by the total amount you assume for the debt (the payoff amount).

- **Loans** – If they have property or other loans outstanding that are at cheaper interest rates than you can get right now, then find out about assuming or taking the company subject to those loans, where those loans get paid by you and the seller doesn't have to spend his sale proceeds to pay them off. This is a dollar-for-dollar reduction in the company's price.
- **Real Estate Leases** – Deals often include property leases that are usually assumed. While this won't reduce the acquisition cost, you should look at how the real estate leases affect the deal overall. Could you move the business to new premises or to your premises that cost less money and then leave the real estate leases out of the purchase? If so, the seller may be able to release or sublet the leased premises for a premium and make some additional money. If they do, especially if you help them find that new premium-priced tenant, you should ask for a portion of that profit to be taken off the deal price. Without your deal, they wouldn't be getting it.

- **Other Liabilities** – I am not going to go into every possibility, but be sure to look around for other debts or obligations of the seller that you could potentially take on or eliminate, and then be sure that you are adjusting the purchase price by the value of the liability that you have taken on or helped the seller eliminate.

Partial Purchases. Do you need to buy the whole business, or would it suit your strategy to have a partial ownership interest in the company you are trying to buy?

- Maybe you buy a piece of a critical vendor. By purchasing a piece of the vendor, you still pay for the products or services you get from them (maybe now at a discount), but now you get a piece of the bottom line – the profits partly attributable to your buying their products or services. The net effect is to lower your effective costs, make you an important customer to the company you just bought into, and increase your profitability. Not to mention that ownership interest is an additional asset when you sell your company. Remember to think about how you might be able to do it for little or no out-of-pocket cost using any of the other tactics in this chapter.

- Maybe you acquire a portion of a company that provides a complementary service or product to the ones that your company produces. Having an ownership interest in an ancillary business could ensure that your business is the first or only option presented to its customers by that other company. Plus, you get the benefits of sharing in the company's profits and may get a more favorable price for anything you purchase.

Rollover Equity. Would the seller want to own a piece of your rapidly growing company? Would they take equity in your company as payment for some portion or all of the value of their company?

- A simple example is offering the seller shares in your company in exchange for all the equity in their company. You paid nothing (or maybe very little) out of pocket to increase the size of your company. The seller gets a stake in your company. When you sell your company at a higher multiple, that seller then shares in the higher purchase price of your business and ends up making more for their company than they would have if they sold it outright.
- Alternately, you use equity in your company to pay for a portion of your acquisition of the seller company. This reduces the cash you need to come up with to close the deal. It also provides the seller with a "second bite of the apple," essentially rewarding them for the contribution their company's assets contributed to your exit success when they are paid for the shares they own in your company.

Involved Third Party Financing. Can you convince a third party to provide financing to help you buy the business because it will benefit them? For example, go to the largest customer of the target company. Get them to give you a loan at a reasonable rate, plus you provide them with priority access to products or services they already buy, or you give them an additional discount on those products or services. This works best with a large customer with cash on hand who may want to increase their profit margins.

Asset Financing. Try leveraging assets such as large equipment, buildings, or inventory to help finance the purchase. Sell or take out a loan on the equity in the asset to help pay for the purchase of the seller's company. It could be done before or even right after the deal closes.

Vendor Financing. Convince a vendor of the target company to provide you with financing to complete the deal in exchange for keeping their contract in place (i.e., not switching vendors) or in exchange for a promise of higher purchases (more per month) or exclusivity (get rid of all other vendors or increase their share of the business) or in exchange for a higher price on the goods that you buy from them.

Receivables Factoring. Another trick to consider with a seller business that has a lot of accounts receivable is to use factoring of their receivables to come up with a portion of the purchase price. Use their assets to help pay for your purchase.

Again, this is only a partial list of how you can get creative about financing the acquisition of another company. A list of 48 other deal finance techniques is included in the resources section of this book. Both you and your team should review that list and keep them in mind as you work through putting together your deals. If you or your team find yourselves wondering how these tactics might work, leverage your external team professionals (deal attorney and CPA, especially) to help you understand how they work and whether they might work in any given situation.

Selling a Piece to Get More

Do you need everything you have now? Have you ever been approached by someone wanting to buy into your business, but you couldn't justify it? One tactic that can be used to gain some investment capital is to sell a portion of your business for cash and then turn around and use that to acquire other companies. Let's talk briefly about how this would work and how you might do it.

First, you need to know how much your current business is worth. The easiest way is to get a business valuation from a broker who wants to sell your company. They will often do it for free. When you do this, follow much of the advice on finding an appropriate broker covered in Chapter 11. You may also want their assistance in finding financial buyers for a PORTION of your company. Sell off 20%, 30%, or even 45% of your company for cash. Use that cash infusion to buy other companies and grow your company.

The broker that helps you sell a portion of your company should also be willing to help you find additional companies to buy since you will have to pay them a commission for helping you sell a piece of your company. Ensure your contract includes that their services extend to assisting with buy-side services after the partial sale closing. That assistance will likely be limited in some way (time, types of companies, number of companies, hours, etc.). Still, the sales commission plus the potential to get a referral fee from another broker for bringing them a buyer should incent them to hunt targets for you. Make sure you get your money's worth for that commission.

Don't give up control. Selling a piece to get more is like having a garage sale to fund the family vacation. Give up only what you can afford to give up to acquire the cash you need to go on your buying spree.

Something else to consider is that “selling a piece” might be selling something other than equity: old equipment, an underused asset or piece of property, a customer account that doesn’t fit into your future growth plans (maybe for legacy services that some other company now does better than you). Think outside the box. Look for something to raise funds without handicapping your business operations or growth.

Last, this is just one more way to raise capital. It may not be the magic bullet, but it can help. The fundamental equation is how much larger your company will get by selling off just a portion of it. Could you double or triple your company size by using that cash for down payments on other companies? Isn’t giving up 30% of your equity worth a 300% return?

A Word on Earnouts

An earnout is a technique whereby a buyer conditions a portion of the purchase price on the future performance of the company being acquired. The seller gets paid that portion of the purchase price at fixed intervals based on the acquired company's performance or upon achieving preset performance milestones. They defer a portion of the total consideration to a later time and are generally not guaranteed. They are conditional upon the acquired company's or assets' performance.

Earnouts evidence a deficit of trust.

As the buyer, if you believe the seller's representations of their company and have confidence in your company's ability to integrate and leverage the assets and capabilities of the acquired company to produce additional revenues and profits, there is no reason to use an earnout. In that same vein, if you want to include an earnout in your deal structure, realize you are sending a clear message to the seller that you don't trust them and don't believe something they've told you.

Sellers generally hate earnouts. As a seller, once you sell the company or its significant assets, even if you are still in charge of some part of the ongoing operations through an employment or independent contractor agreement, you won't feel like you have control over the results. You'll feel helpless to realize the additional payout, and it'll irritate you like a pebble of sand in an oyster, except without the certainty of a pearl being developed in the process.

Earnouts are a great way to drive a wedge between you and the seller. You may not be able to get the seller to agree to them, and you may end up killing the deal. Maybe that's good. Probably it's not. If you want to acquire that company, avoid them. A better option might be rollover equity or a longer term contracting or consulting agreement. Equity ensures they share in the combined company's future success by being an equity holder in the combined entity. Sellers will understand that while equity has future value if they sell you less than what they represented, their future payout on those shares will be similarly handicapped. A contractor or consulting agreement, something we'll discuss more in Chapter 7, is another way to get the seller to agree to spread a payment out over time. However, with a carefully crafted consulting agreement, they will feel like they have more control over achieving the performance objectives. It also spreads their departure from their company out over time, which could help with the sense of loss some owners feel after selling their company.

Alternately, discount the purchase price by the amount of the discrepancy and provide for a bonus payment if the performance objectives are obtained. Earnouts imply work and have a negative connotation. Bonuses are recognized as additive and are generally regarded as a positive. You might argue that this is a semantic solution to a real objection but don't knock it until you try it.

Ultimate Calculus of the Deal

At the closing bell, the most important concept is how to structure a deal to fit your financial abilities, properly calibrate the deal structure to the deal's financials, and produce the growth effect you are striving for. Always do a final evaluation before you make it final. Look for all possible approaches during due diligence. Review assets, cash flow, vendors, customers, liabilities, lenders, etc. Look for every possible way to leverage those existing relationships to secure the financing you need to close the deal.

Your LOI should have made it possible for you to get creative with the deal before you get to close. Formulate your agreement with the seller or the appropriate third parties that enable you to close the deal on terms that enhance your business without spending as much cash.

Talk to the seller and let them know what you have in mind. Be sure to understand why those options make sense so you can sell them on the planned structure. If the financing option happens with a third party at or after the closing, ensure the deal is fully vetted and communicated with the seller before closing.

One last note on deal financing is the concept of "cash-free, debt-free" or "CFDF." This term tends to get thrown around a lot, and people are often confused by it – what does it mean?

- "Cash free" means you will not keep their cash at closing. They keep most or almost all of their cash at closing. How much cash you keep in the company depends on another challenging term, Net Working Capital, which we'll cover in Chapter 7. It does NOT mean you won't pay cash to buy the company.
- "Debt free" means that you will not assume any of their debt at closing, and the company will be acquired free of debt. This may or may not be something you want. Using their debt to help you acquire the company might be more intelligent than letting them pay off loans or other liabilities that are potentially cheaper than what you can get today.

Bottom line: "CFDF" is a common ask on deals, but it may not fit with creative deal finance. You might keep some cash to maintain operations and use some to pay the seller or other expected bills post-close. You may also be assuming some debt rather than paying cash to the seller so they can pay it off. Don't get forced into agreeing to this until you are ready. That won't come until you are deep in the throes of due diligence.

One of the biggest fears many business owners have about acquiring other companies is, "How am I going to pay for it?"

Hopefully, this chapter opened your eyes to how deals can be financed with bank assistance, leverage, and other creative finance techniques. More importantly, understanding these deal finance techniques should have opened your eyes to what information to look for through due diligence and for preparing the deal documentation. With these financing ideas in mind, let's dive into taking the deal from LOI to the closing table.

CHAPTER 7 – DEALING: Getting from LOI to Close

As a kid, I was always the apprentice on my father's various projects around the house. We built rock walls, doghouses, and gazebos, invented new irrigation systems, and were constantly doing something new. Whatever we built, I remember my father sketching out a rough design on a piece of paper, hopping in the car to the home improvement store for needed supplies, and then getting to work on whatever it was we were building that day.

As you can imagine, very few projects went as originally planned. I remember my father complaining about not having the right tools or realizing he needed something additional to complete the project. I remember getting into the van still dirty from working, going back to the store to buy that one thing we didn't have, and then coming back and magically getting to the next step or finishing the project.

You have a strategy. You have targets. You have a team. You have a plan. Now is when you work the plan and, like the additional trips my father and I took to the hardware store, sometimes adjust and refine your process as you go. Remember to keep your eyes on the goal: growing your company through acquisition. As long as your actions continue to be in pursuit of that goal, you will get around the little rocks impeding your progress that seem like boulders when you first encounter them.

Due Diligence – Avoiding Buyer's Remorse

As discussed in Chapter 4, the due diligence process is the most crucial aspect of any deal. In that chapter, we also talked about taking the **Model Due Diligence Checklist** in the Resources section, reviewing and understanding it, and customizing it to fit the companies on your target list. That may mean you have several variations of the list, each geared to the kind of company it was customized to fit.

At this point in the process, you found a company and made a tentative deal with them (memorialized in an LOI). The next step is due diligence. One of the primary objectives of due diligence is avoiding buyer's remorse. I have had clients come to me six or nine months after completing an acquisition and say, "Wow, I'm not sure I should have ever bought that place." Other investors told me about doing quickie due diligence or just trusting the information they collected during preliminary diligence. They later had to close down the acquired company and write the entire investment off as a "good experience." To help prevent buyer's remorse, here are my five rules of due diligence and a set of corollaries to help ensure you do it right the first time and every time after that.

The 5 Rules of Due Diligence

The first rule of due diligence is not to skimp on due diligence. This is your only real opportunity to discover information that will prevent you from making a bad decision or deal. Shortcuts only hurt you, not the seller, and not anyone else. Take your time to review what you need to review, and complete the entire checklist. If you do, the chances of making a terrible deal decrease dramatically.

The second rule of Due Diligence is don't do it yourself. You need the perspectives of people experienced in reviewing company information and uncovering critical information to help you understand the actual condition of the company you are about to acquire. Internal team members should be involved, but the experience and expertise of external lawyers, accountants, and other consultants are simply invaluable. Don't do it without them.

The third rule of Due Diligence is to spend time where time is needed. Determining what is most important to review about a company depends on the company, the industry, the information you determined before developing your LOI, and the learned advice of your external, experienced advisors. Once you decide what areas need to be examined thoroughly, DO THAT. And don't waste time on those areas that don't apply or aren't critical for this particular deal. Focus on what you and your team KNOW is essential to review for this deal.

The fourth rule of Due Diligence is that no two are entirely alike. While the checklist has plenty of items that apply to every company you look at and that you should do every single time, no two companies are alike. You may need to spend more time on systems with one company, equipment with another, accounting and financial records with another, and marketing or products with another. Identify the critical areas up front and then ensure your process for that company is correctly adjusted to the company you are looking at.

The fifth rule of Due Diligence is that it must solidify price, value, and fit. If you are not using due diligence to help you justify the deal price and structure and the company's fit for its intended purpose, you're doing it wrong. Due diligence must provide the data needed to justify the acquisition. You need it to help you understand the other company's actual past performance and actual future potential. It has to be instructive in how easily that company and its team, products, systems, customers, vendors, and more can be integrated with your current company. You're doing it wrong if you don't get all this from your due diligence review.

The Corollaries to the Five Rules

Past Performance is Paramount. As we discussed in Chapter 4, you pay for a company's past results. Never base the purchase price on what you think you *might* be able to do (potential). You base the valuation on what is achieved and sustainable. Paying for a company's potential is a recipe for overpaying, underachieving, and buyer's remorse. Make sure that a critical objective of your due diligence efforts is validating the company's past performance. Then, determine whether it justifies the LOI price, a lower price, the LOI deal structure, or something different (potentially a structure that buffers against any fluctuations or inconsistencies in past performance) or, if the seller has been pressing for a better deal, maybe a higher price.

Future Potential Must be Discounted. Future potential is what you think the business *might* be capable of once you have control. Thinking about what you will or believe you can do with the business is good, but don't base the purchase price on what you think you *might* be able to do. Too many entrepreneurs get ahead of themselves and pay a premium for a company based on its potential. Buying based on potential ends in one of four ways:

(1) The expected potential never pans out, and the acquisition fails.

(2) You determine later that the potential will take more investment and time to develop than you expected to achieve that future potential; money you never expected to spend or don't have available to spend or both.

(3) You pay too much for the company and thereby spend money you will never see again.

(4) Lady Luck waves her wand, your team knocks it out of the park, and all is well in the universe.

Beware of when lightning strikes and you hit the jackpot with #4, though. I hate to be cynical, but it's generally the exception, not the rule. When it comes to price, forget about potential. Potential MUST be considered "upside" (a bonus), not a fundamental part of the deal. If the seller is pitching potential when they talk price, thoroughly analyze what it will take to achieve that potential and then use that information to negotiate a lower price. And look at the actuals –

because if the seller is preaching about potential, there are skeletons in the closet they don't want you to notice.

Performance Determines Affordability. Following the fifth rule of due diligence, make sure you are gaining an understanding of the seller's asking price, determining your valuation of the company, and devising the most logical deal structure. You should craft a deal supported by the data and affordable based on the added revenue and profit gained through the acquisition. If your purchase isn't going to pay for itself and then some, it's not a deal you should be making. Walk away.

The Market, Not a Survey, Determines the Valuation. As shown in the Valuation Multiple Sources list in the Resources section, many institutions and companies analyze deals and what multiple was achieved. Remember that they are all summary analysis solutions. The truth is that a company is only as valuable as the price someone is willing to pay. You will encounter sellers who are sure their company is worth more than you think. You need to use the diligence process to find that additional value. That is one of the core purposes of due diligence. You get to examine the books, review operations, dig into sales and marketing, and review their results. You get to think through synergies between this company and yours. You get to determine its value and express that through the deal price. At the end of all that review and analysis, you should clearly understand how much money this company is worth. Your data-supported and company-specific valuation is more accurate than a third-party valuation model could ever provide.

On top of that, your diligence insights give you the ability to clearly articulate the basis for your price to the seller. Don't shy away from that opportunity. Don't worry about hurting their feelings because you disagree with their opinion of their company's value. Tell them what you're willing to pay and the structure of that payment (deal terms) and why, and then be ready to walk away if the deal is no longer "on." You have other options on your target list.

Never Be Afraid to Walk. The final corollary of due diligence is never to fear walking away from a deal. Be diligent and open-minded, and don't kill a good deal unnecessarily. But if the data shows you the deal won't pay for itself, the company is not a good fit, the price isn't justified, or no workable deal structure is possible, then end the process and stop the deal immediately. Pat yourself on the back for failing fast. You just saved yourself some money to pursue a different target that might be a better deal and fit for your company. Walking away early is a win.

Synergy, Repulsion, and the Simple Concept of "Fit"

A key source of fear or apprehension for business owners looking to acquire other companies is inheriting headaches or experiencing difficulties integrating the new acquisition with their own company. Knowing your integration plan up-front and validating it through due diligence is the antidote to that fear and something we'll discuss more fully in Chapter 8.

Understand the goals you are trying to achieve (remember that strategic plan from Chapter 2?), make sure every target fits them, and then validate that fit during your inspection of the company.

Understand the factors that result in synergy or repulsion.

- **Synergy** is when things fit together well and work better together. One part energizes another. Look for ways your company and target can work together and energize each other.
- **Repulsion** is when things are so different between your companies or when aspects of your companies are so at odds that they are more likely to push each other away than pull together. You must look across several company aspects to find repulsive factors. More often than not, they exist in the people or work environment or ethics, the systems (or lack thereof), the processes in use, or how the target company presents itself to the outside world.

Many people consider "culture" an essential aspect. Unfortunately, it's become a somewhat overused and overbroad term. "Culture" encompasses multiple variables and is difficult to consider rationally in an acquisition process. It refers to the personality of the company and its people. It's better to dig into those specific elements that comprise the culture and determine fits accordingly. Different aspects will have different effects depending on the industry.

Consider synergy and repulsion in every aspect of the diligence checklist. Ask: "Is this a good fit for my current company?" If not, consider, "Will it cause a problem for my company?" If it will, how big of a problem will it cause? How much will that problem cost in terms of time and money? If the answer to "Will it be a good fit?" is yes, then determine the benefits you could realize from incorporating it into your business. What or how much are those benefits worth? Those are your future potential measures.

In the end, once you have reviewed everything, do a simple "gut check." Does it feel right or not for everyone on your due diligence team? Your internal team should be an empowered bunch who can be respectfully dissident. They will be handling the integration. Get a go/no-go evaluation from them. If they feel the integration will go well, you have your "fit" answer.

Your outside advisors will also have valuable opinions based on their independent experience. Get it. Do they think you are making an intelligent purchase or are about to buy a problem? Provided you have found a good fit in all other aspects, your job is to ensure the numbers and deal structure work.

Evaluating the Financials

Evaluating the target company's financials is of paramount importance. Leverage the customized due diligence checklist you created with your team. Double-check the list before you send it over to the target company. With financials, you will check bank statements, financial reports such as profit and loss statements, cash flow analysis reports, and sales data. You will review both paper records, reports, and data housed in accounting and other systems.

Once diligence begins and target company information starts flowing, ensure the paper and system records agree. Look for anomalies or inconsistencies first. If you find that the data they are providing is inconsistent or erroneous before you even dig deeper into what that information means to the business, that's a red flag you should clear up immediately.

Beware of internal transfers between supposedly unrelated accounts. This may happen when the seller has more than one company, and they have been transferring money back and forth. You may also see situations where the seller has been taking money out or putting money in from their personal bank account. Those transfers need to be explained and have a legitimate paper trail. Unexplained transfers may indicate weaknesses or inconsistencies in the business that are being concealed. These transactions are terrible if you make a share purchase because they may expose you to liabilities you cannot yet understand.

Understand cash flows and learn the company's monthly net working capital (NWC) amount for the past three years, especially the past twelve months. Look for patterns of spending and incomes and understand the predictability of it all. More on NWC in a minute.

Review customer accounts and accounts receivable (AR). Is the target company's income concentrated among a few large customers, or is their business distributed among multiple accounts, none significantly larger than the rest? Companies with highly concentrated revenues among only a few large customers are risky. Losing even one of those large customers risks the entire financial model. Also, customers are more likely to seek alternatives when a change of ownership occurs because of the perceived uncertainty that change brings. Review a current AR aging report. Are their customers paying promptly, or is a significant amount of their AR older than sixty or ninety days? Is it collectible?

Does the target have a recurring revenue model (i.e., monthly, quarterly, or annual subscriptions with automatic renewals) or at least streams of recurring revenue (i.e., at least a few products or services are subscriptions, payment plans, etc.)? Are those revenues predictable or wildly variable (red flag), increasing or decreasing over the past twelve months, and why?

If their revenue is transactional instead of recurring, understand how robust their marketing and sales functions are and how much is spent on those functions. Do they have solid streams of new customers, and how are they getting them? Is that inflow of customers sustainable? Are their products and services designed to continue attracting new customers? Do they have a series of new products to keep customers returning? How much do they spend on R&D to create those products, and is that expense sustainable post-deal?

Examine their expenses and accounts payable (AP). Look for bills being paid on time. Check for material swings in costs from one month to another and find out why expenses increased or decreased so dramatically. Is that something that happens regularly? If so, why? You want to see strong relationships with vendors or suppliers. As with customers, consider whether a significant amount of business is transacted with a few suppliers. Over-dependency on single suppliers is a considerable risk, especially for product companies.

All of this must be on your due diligence checklist. If you started with the model checklist in this book's Resources section and got input from your experienced external team members and your internal accounting members, you will have a solid review of the target company's finances. What records do you need to look at? What are you looking for and why? As the leader of the acquisition process, you must know what every item on that list is and how to find out about it. Your internal and external team members will guide the way on this. Leverage them.

Deciphering Net Working Capital

A concept that every acquisition involves but seems mysterious and hard to grasp, no matter how many times an accountant explains it to a layperson, is net working capital (NWC). What is NWC, and why is it a critical deal component?

NWC is a financial metric representing the liquidity a business offers for its day-to-day operations. It's essentially the difference between current assets and current liabilities. Current assets include cash, accounts receivable, and inventory. Current liabilities encompass accounts payable, short-term debt, and other short-term obligations. A positive NWC means the company can pay its bills. A negative NWC indicates the company is struggling to pay its bills.

NWC has a significant impact on the acquisition deal itself. First, it affects the overall valuation of the business, as a higher NWC often leads to a higher purchase price. Additionally, the NWC can influence how the deal is structured, including payment terms and contingencies. Understanding NWC is also essential for planning any capital expenditures, operational changes, or potential restructuring that may be necessary post-acquisition.

During the due diligence phase, correctly assessing a target's NWC needs to include reviewing the following areas.

- Your accounting team should audit financial statements from the last 3-5 years to understand the trend in NWC. Are they always paying their bills? Do they have times with a large cash surplus or other current assets? What is the trend with AR? With AP?

- Current assets, particularly accounts receivable and inventory, should be scrutinized for collectability and obsolescence.
- Current liabilities, such as accounts payable and other short-term obligations, should be evaluated to ensure they align with industry norms.
- Reviewing off-balance-sheet items and legal obligations that could impact the NWC is also essential. Comparing the target's NWC with industry benchmarks can provide additional insights into its performance.

From a deal perspective, when the discussion turns to NWC, expect the seller to want to keep all their AR and all the business's cash. If you let them, you'll end up with a company that lacks liquidity. You must ensure that the deal is structured so that even after you close the deal, the business has enough working capital to keep running without cash infusions from you or your company or a bank line of credit. None of those are viable solutions to an NWC deficit caused by letting the seller take critical assets with them at closing.

As discussed in Chapter 6, if you are using seller financing, the seller should understand that taking all the cash and receivables sets you up to default on their loan. Taking all the cash and AR may leave you with no way to pay their note. It could kill the deal before it's done. In acquisitions with bank financing, the bank will insist on having sufficient NWC left in the company, or they won't write a loan or grant a line of credit.

NWC needs to be structured appropriately in the purchase agreement. Your accounting team needs to let you and your attorney(s) know the amount of current assets that must remain in the business post close to cover current liabilities. This includes understanding how quickly those current liabilities replenish themselves and what level of bills you can expect to pay (on average) over the coming 3-6 months. Based on this information from the accounting team, your attorneys need to specify a target NWC level based on those averages in the purchase agreement. If the actual NWC at closing is higher than the average level needed to keep the business operating, the excess gets distributed to the seller at closing. If the actual NWC is lower than the average, the purchase price gets adjusted so the buyer can use that purchase money to augment NWC and sustain the company. Your attorney may have other ways to handle NWC in the purchase agreement, but this is one of the more common methods.

Your attorney should draft the deal structure and the reps and warranties in the PA to specify that the seller accurately represented everything to the buyer, especially regarding NWC. You may want an escrow or holdback agreement in the PA so that if the NWC drops in the months immediately after closing, you have some protection from the escrow account. The purchase price adjustment included in a holdback provision pays you when the business takes an unrepresented or unplanned dip, resulting in insufficient NWC to pay bills. This helps protect against the unexpected and encourages the seller to ensure that the numbers accurately represent working capital requirements, so distributions from a holdback are unnecessary.

The bottom line on NWC is you need to know what it takes to run the business each month, including allowances for seasonality. The deal must be structured so the company will continue to sustain itself post-close. The seller needs to understand that trying to take everything out is a bad idea for them and will kill the deal – OR – you need to know exactly how much they will have to put back into the business to keep it running post-close and ensure that the purchase price reflects that additional expenditure (i.e., don't pay more than you should). Your attorneys must ensure that the paperwork properly reflects these aspects of the deal.

How Financials Inform Deal Structure

During due diligence, the financials will whisper the deal structure to you. Think back to Chapter 6. Your due diligence review should suggest what deal structuring tactics to use. While some aspects may be outside the financials, everything about the deal structure is financial.

Even if you are thinking about doing a carve-out of an asset, you need to know the value of that asset to the business: the revenue it is involved in, whether it's fully depreciated, whether it's financed and for how much, how much the monthly bill is, and how much is still to be paid. I have seen executives bring a company nearly to its knees because they were ignorant of the foundational value contributed by specific assets and teams. Carve out only what you can afford to do without according to data collected during due diligence.

If you are looking at assuming a liability, as discussed for loans in Chapter 6, you need to understand the interest rate, term, maturity, and monthly payment. You also must understand how well that liability compares to what you can get to replace it (i.e., a new loan, refinancing, replacement asset, etc.). Will preserving that liability give you access to banking resources and relationships that could be leveraged for future capital infusions? Is that liability secured by other assets that you are acquiring? You need to understand a liability's story before you assume it.

If seller financing is a likely aspect of the transaction, you must understand the cash flow, including how much is available for new bills each month/quarter/year. You must understand how much money comes in each month, how much money goes out, and whether that cash flow is sufficient to support your deal structure. Beyond your deal structure and purchase payments, does that cash flow support the company's ongoing growth needs? Does it contribute additional cash to the combined company (i.e., increase your bottom line)? If not, you should not acquire this company. You are acquiring before you exit to grow your company by acquisition and increase your exit. If you add assets that will take years to produce a material bottom-line bump, then it's the wrong target. Walk away.

As you review financials, ensure your financial team and advisors confer constantly on what to review. They should inform you what they find as they find it rather than providing a single report when they are all done. The latter is not as helpful in finding and digging into potential issues. If you know about a problem, you can adjust your due diligence information request to help you understand it. When you are done with financial due diligence, you should:

- **Understand where the money is coming from** – lines of business, products, customers, channels, wholesale versus retail, product versus services, best salespeople, most effective marketing campaigns, etc., and whether there are any issues with collecting that money when it's due (slow-paying customers, bad debts, problems with credit, etc.).

- **Know where the money is going** – what the business pays the most for (e.g., independent contractors, inventory, raw materials, transportation, postage, supplies, etc.), how much, how often, whether there are any high or low points in a year, what those are, etc.
- **Measure how much is left over** – and where that has been going. Reinvested? Distributed?
- **Understand tracking systems** – and evaluate how well they track the business and how well they will integrate, blend, challenge, or improve your current systems and processes.
- **Inform deal structure** – what deal structure makes the most sense for the acquisition based on your findings? Do you need a holdback? Should you insist on an earnout or other protective device or decrease the purchase price? Do you want to carve out assets, assume liabilities, refinance, or finance other assets to pay the bill? Is a seller note affordable, and at what level? Etc.
- **Enable NWC bracketing** – how much NWC needs to be left in the company to keep it going until you have completed integration, and how does that work in the deal? Determine upper and lower limits and the appropriate monthly average for the purchase agreement.

Paperwork – Covering all the bases

At the same time the team is cranking through due diligence, your legal team should be working through deal documentation. In Chapter 4, your team assembled a folder of deal documentation templates for each deal. Your attorneys will start by leveraging these documents. However, remember that the more creative or complex the deal structure, the more likely it will be that one or more specialized documents are needed. Get your legal team working to knock those out as soon as you know them.

With documentation, you always need to start with the end in mind. What are you trying to accomplish? How are you going to accomplish it? What has to happen to close the deal, to effectuate the transfer of assets or control of the company? What money goes where? Who stays, who goes? Etc. These factors determine what paperwork must be prepared to consummate the deal properly.

Never shortcut documents simply because you're pursuing a smaller-sized deal. Make sure you are protected from the risks involved in your specific transaction. Have your legal team explain what is needed and make intelligent decisions they agree with, noting that attorneys naturally tend toward over-protecting. Sellers tend to want simplicity and fast cash. You don't need to build Fort Knox in your documents to be adequately covered against risks, but you shouldn't agree to shortcuts or unreasonable demands by the seller that leave you exposed. An example? One seller tried to pull the entire indemnification provision (that protects the buyers against lawsuits and issues that occurred pre-closing) out of a share purchase agreement, insisting that no prior claims meant that was safe to do. It's not, especially for a business that handles solvents and other hazardous chemicals regularly. The buyer walked away.

Asset Versus Share Purchases and Diligence

As we discussed in Chapter 5, the two main ways of buying a company are to acquire all or substantially all of its assets (an asset purchase) or to buy the whole kit and kaboodle by buying all of its stock (corporations), membership units (LLCs), or partnership shares (a share purchase). As you work through due diligence and move toward completing the deal, you must remember the purchase method's impact on the diligence process.

In an **asset purchase**, the buyer acquires specific assets and liabilities of the business. This allows the buyer to pick and choose which assets to acquire and which liabilities to assume. Your team must capture that asset list and inspect the assets to be purchased. They must also evaluate any liabilities you may assume to ensure they fit the deal calculus. Transferring individual assets can be complex and may require third-party consent (e.g., when equipment is security for a loan). Be sure they ask those questions and get any contracts or agreements about assets being acquired for the legal team to review. Additionally, an asset purchase does not transfer the legal entity itself, so any contracts, licenses, or permits the business holds may need to be renegotiated or reapplied for. Ensure your due diligence adequately covers these requirements specific to an asset purchase.

In a **share purchase**, the buyer acquires ownership of the company by purchasing its shares, effectively taking over the entire business, including all its assets and liabilities. The administrative burden of this type of acquisition is generally more straightforward as the legal entity remains intact, and there is no need to transfer individual assets or renegotiate contracts. However, a share purchase also means inheriting all existing liabilities, some of which are not fully known at the time of the acquisition, regardless of due diligence. Tax implications in a share purchase can also differ and may be less advantageous to the buyer than an asset purchase. As your team is conducting diligence on a share purchase, they should remember to ask about everything, especially any history of claims or lawsuits. The team should try to defeat potential surprises for a share purchase. Your legal team must also ensure the purchase agreement is written to help protect you against future claims for past problems. We'll discuss that next.

Purchase Agreements – The Basics You Need to Know

An average purchase agreement (PA) for an SMB ranges from 20-35 pages for smaller or more straightforward deals and can exceed 70-80 pages, depending upon the complexity of the business, the industry it's in, or the transaction details. For most SMB PAs, the average will be in the 30-50 page range, NOT including the attached schedules with specific information related to the details inside of the PA.

Just like the deals they represent, no two PAs are alike. A template document has NOT been included in this book. Instead, when selecting your deal attorney, have them send you a couple of sample agreements (one asset, one share) to review so you can understand their style and see how they assemble one of these documents. If you get a lengthy, incomprehensible document, or if it looks sloppy (misspellings, inconsistent headers or paragraph markings, poor organization, etc.), interview a different deal attorney. I'm unsure how a client can trust an attorney unconcerned with understandability and professionalism.

Unless you have been involved in an M&A deal previously and had an attorney walk you through the PA's provisions, you likely will not want to spend a few hours reading and attempting to understand one. To help you understand the document, how it is structured, what specific terms mean, and how and why they are used, here is a quick rundown of what to expect in a PA. Note that this is not a comprehensive description, just an overview, and the contents of your PA may differ, often based on the experience and preferences of your deal attorney and the specific requirements of your industry.

Preamble. The opening language of a PA specifies the name of the agreement and its parties, being the buyer and the seller, and, in the case of a share purchase agreement, the name of the company whose shares are being acquired. Note that for share purchase agreements, the seller is NOT the company being acquired. It is the shareholders, and there can be several of them. For each party that is an entity (e.g., corporation, limited liability company, partnership, etc.) rather than an individual, the PA should specify the primary business address and the state in which it was formed.

Background. Also archaically known as or drafted as "Recitals" and couched in words like "whereas" and "wherefore," this section is better handled as a paragraph or a short set of paragraphs that spell out who each party is, that they both want to do the deal, and why. It doesn't need to be lengthy or super detailed. However, it should provide enough background information for a disinterested third party (e.g., a judge) to understand the general nature of the deal.

Definitions. Generally used to help collect the unique definitions used in the agreement, this section sometimes becomes a multi-page glossary of definitions used in the document. For shorter agreements, this is unnecessary. Long lists of definitions may also be challenging for an attorney to keep aligned with the terms used in the document, especially if it goes through multiple reviews. Ensure the list mainly covers the definitions that are truly impactful to the agreement.

Deal Terms. The first substantive sections of the PA should spell out the deal terms. This is where the contract spells out whether the buyer is buying assets or shares, how and how much they are paying for them, etc. NWC provisions that specify the acceptable level at closing (and the adjustments to be made if it is not) should also be included here. This section should document the deal structure in sufficient detail and <u>in terms you (and the seller) understand</u>. If anything doesn't make sense or is worded such that even your most esteemed college professor would go cross-eyed reading it, make the attorneys reword or restructure the section so that it is easy for you and the seller to understand without getting a legal translator. You will have either an asset listing or an exclusion list for asset purchase agreements. For a stock purchase agreement, you may have some exclusions or carve-outs for assets being distributed or removed from the business before closing that you are agreeing to.

Representations and Warranties. Each party to a transaction needs to provide assurances to the other about their part in the deal. Those representations may be as simple as the seller stating they have the legal right to sell the assets or shares you buy. They could be as complex as explaining their actions to mitigate a regulatory compliance situation discussed during due diligence and that they need to assume ongoing responsibility to resolve. Work with your attorney to understand what representations and warranties should be included in the document template and what should be changed or added for each deal. Many of the representations and warranties will stay the same from one PA to the next, but some will be specific to the deal structure, the parties, and any particular circumstances involved in that deal.

Covenants. Covenants are specific promises related to the deal. This could be about keeping the agreement's existence or terms strictly confidential until it closes. It could be an agreement about how key executives will be handled in the deal. They are often related to taxes (although tax provisions may be handled in an entirely separate section, especially if they are complex) or the handling of regulatory filings or licenses. Remember that this is the section where agreements between the buyer and the seller to work together on unique aspects of the deal are found. Make sure they are understandable and appropriate to the agreement.

Indemnification. Entire books could be written about this part of the agreement (and have been), but we'll try to keep it as simple as possible here. This is your contractual insurance policy section. Although it acts like an insurance policy, it is not between the parties and an insurance company but strictly between the parties involved in the transaction. It is one of the more critical aspects of how a PA protects both parties to the agreement should something go wrong, usually involving someone who is not a party. This section is going to be hard to understand as the language provides for different labels (indemnitors, indemnitees, third-parties, successors, assigns, etc.)

that might apply equally to you, the seller, or someone else (such as a director, agent, or heir of one of the parties, among other possibilities). Do your best to know what kinds of situations your purchase agreement provides for, likely by having your attorney walk you through it and translate the often obtuse legal language necessary for this particular clause. Realize that contract language is often open to interpretation, no matter how carefully drafted. For the attorneys reading this book, the following explanations are purposefully over-simplified.

- The first thing to understand is who's who?
    - "Indemnitors" are the people who provide the protection, like insurers.
    - "Indemnitees" are those who are owed the protection, like insureds.
    - "First parties" are the parties to the purchase agreement itself. This could be you and the seller-owner. It could include the shareholders that sold you their shares in the acquired company.
    - "Third parties" are people (which can include other companies, regulators, or individuals) who are NOT directly involved in the agreement or directly related to a party to the contract (i.e., you or the seller).
- Next is understanding whether the clause covers first- or third-party liability or both. Most purchase agreements are concerned primarily with third-party claims as first-party claims are usually directly related to the contract

and some breach thereof (e.g., the offending party said something that wasn't true or did something they weren't supposed to under the agreement). However, they may also provide instructions for claims that arise between buyer and seller that may or may not be covered elsewhere in the purchase agreement.

- Purchase agreements also usually include language that limits what will get paid if a claim is made against an indemnitee.
    - A "basket" or "threshold" is kind of like a "deductible" on your auto insurance policy that must be paid *before* the insurance company has to pay for anything. Similarly, in a PA, the claims that trigger indemnification (protection) must add up to that threshold amount before any indemnification payment is required.
    - There may also be a monetary limit on indemnification – a "cap" – that specifies the most an indemnitor has to pay, no matter how many claims are raised. This is similar to an insurance policy's "policy limits." Most agreements at the SMB level provide that the total purchase price is the most a seller will ever have to pay.
    - You will sometimes see indemnification limited to a lower amount for less critical aspects of the agreement and higher limits for more fundamental elements of a deal (such as the right to sell).

  - Indemnification may also be time-limited, often aligning with a statute of limitations that controls when a third party can make a claim.

- The last part of an indemnification clause will usually specify a process to follow if an indemnifiable claim is made. Generally, some notice of a claim being lodged that results in a duty for one party to indemnify the other is required. You may also have provisions about who chooses the attorney or what kind of attorney is acceptable. You may have insurance clauses that require indemnity to be taken from any applicable insurance policies first. You may also have limitations on who can settle a claim.

Special Terms and Conditions. Different industries may require the agreements to have specialized clauses. For example, some agreements have long sections on government contracts. Others might cover environmental concerns. In limited license industries, an entire section (and potentially ancillary agreements) may describe how the business will be handled while regulators approve the sale or transfer of the company or its licenses. Ensure that your attorney covers all the angles in the PA so that nothing (or at least very little) is left to chance. If you are in a regulated license industry, ensure your deal attorney is either directly experienced in handling license issues for your industry or associates with an industry-experienced attorney who can ensure those terms and conditions and ancillary agreements are appropriately crafted.

Bottom Line. The explanation above should help you understand what's in a PA. But, especially when you are getting a template put together to use for your deals, have your deal attorney walk you through the entire PA so that you know what it says, you understand your rights and obligations, and you can complete deals knowing that all appropriate risks are covered.

Contracts, Licenses, and Other Agreements

If you are purchasing assets, make sure your legal team reviews all the contracts the seller company has in place to ensure you can assume them, or they can be assigned to your company. You may need contract amendments or assignment agreements to assume or have those agreements transferred to your company. Note that you usually do not have to do this with a share purchase. With a share purchase, you buy the entire company, including all its obligations, outstanding contracts, licenses, etc.

Look into the regulations around any licenses that you are acquiring or want to acquire. If there are restrictions on transferring those licenses (e.g., in the aviation or cannabis or (often) construction industries or many professional services companies), you may be forced into a share purchase if you want them.

If you will be assuming building leases as part of your deal, make sure your legal team looks at the premises leases for the buildings or other facilities the target company uses. If there are restrictions on transferring or assigning the lease, then you have only two choices: (1) Persuade the landlord to agree to it anyway, possibly through a new lease, or (2) Look for another building or facility to move into before closing. The latter option may result in forfeited rent or security or additional lease payments the seller will still owe after you move out. It also involves additional time and costs to secure a new facility and may disrupt the business. Be mindful of restrictive leases. If you must find new facilities, ensure the deal structure and price reflect that.

Another tricky aspect of dealing with contracts and licenses with an asset purchase is the concept of "change of control." A change of control is when more than 50% of the ownership or management control over the company gets transferred to someone new (regardless of whether that "someone new" is a new entity, a new individual, or some other creation, such as a joint venture). Some contracts require the agreement to terminate (end) if there is a change of control. If there are contracts with restrictions or special procedures related to a "change of control" or a sale of all or most of the company's assets, you will need to see if those issues can be overcome or if they kill the deal. Before they kill the deal, get the seller's help to overcome objections. They want to sell, so they will help. Usually, you just need to ask.

Handling Human Resources (HR)

One of the most delicate aspects of any deal is people. I've been an employee and executive at companies both acquired and sold. I've also been an advisor and attorney for both buyers and sellers. Discussions about handling employees and contractors to ensure they stay (or go!) are aptly described as a "ballet." If you do not have an HR pro on your team, getting the assistance of a professional human resources consultant is a wise expenditure. Here are a few key aspects of handling human resources that you should know.

Announcing the Deal. Generally speaking, you and the seller both want only certain people to know about the deal. It could fall through, and then what? If everyone knew about it, having it fall through would send shock waves through the company and could cause problems (such as an employee exodus) that often result in lawsuits. Announcements to most employees usually take place right *after* closing, with some exceptions.

Key Employees or Managers/Leaders. Although you'll probably not retain the target company's owners (except as part of a transition agreement, which we'll discuss in a moment), you will most likely want to retain the key personnel that keep the company running. To do that, you will want to put together retention agreements that assure those employees will be appropriately taken care of and provide them with incentives to stay. You might want to lock them into a contract for a certain period. You might want to offer them a retention bonus that can either be cash- or equity-based. However you do it, consider how to retain key talent and ensure it is fully documented and ready for signatures at closing.

Offers of Employment. For asset deals, you will rehire all the acquired company employees immediately after closing. That means that for every seller company employee, you need employment offers for them to sign to keep their jobs. You will also want to make sure that your announcement puts a big, rosy ribbon on the deal that makes every desirable employee anxious to sign those offer letters. Generally speaking, everyone will. But for how long? Before they race for the exits, you need time to evaluate, separate, and decide how to handle them appropriately. You may need to move people around. You may need to understand team dynamics and interpersonal connections, not just simple productivity, quality, or effectiveness metrics. This takes the first few months of integration to do correctly.

Once accomplished, you may need to adjust people's titles, the overall organizational structure, management assignments, or compensation to properly align everything within the combined company.

We'll cover this aspect in our discussion about integration in Chapter 8. Right now, realize that to rehire everyone immediately after closing for an asset purchase, you must understand everyone's titles, roles, salary, and more to assemble employment offers correctly. While you can modify their employment terms to match your company's programs, titles, and compensation structures, don't make any radical shifts until you can perform proper assessments during the integration process.

Independent Contractors. Some companies have some of their most essential resources on contract rather than payroll. Regardless of whether this is an asset or a share purchase, you need to scrutinize those contracts. First, be sure that the contractors are contractors and not employees. While a company may get away with keeping someone technically an employee as a contractor, changes in ownership sometimes trigger audits of matters like this by regulators. If they determine the person is and should always have been an employee, you have a problem that hopefully your indemnification clause covers. When you review the contracts, you must also ensure they are assignable. If they are, then you will need to get assignments put together. If it is an essential contractor, be prepared for the contractor to request something extra to stay on, especially if the agreement is expiring soon or may be subject to periodic rate increases that your acquisition of the seller-company affects. Remember, a share purchase agreement vitiates this need because you buy the whole company, including all existing contracts, unless there is a change of control provision in the agreement, as discussed above.

Transition Agreements. You may need the current owners to stick around for some time to complete a proper transition. Be prepared to set up a consulting or other agreement with the current owners to get their assistance for a limited time to get their help with the business transition. Usually, a seller can persuaded to do this for up to 90 days for free. If you need more time than that, be prepared to pay them for that additional time.

Note that a consulting agreement may be a creative finance method as well. It may also be a tactic that makes an earnout more palatable because the seller will continue to have some control over the company and its results. Instead of paying the purchase price all up front, you have the seller sign a consulting agreement that provides you access to them for some time (usually no more than two years) for a fixed monthly rate. The value of that contract can be considered part of the purchase price in many cases, which is then a good deal for the seller because not only is the income considered part of the purchase price and subject, therefore, to lower capital gains tax rates, but also they can write off expenses against that consulting income and effectively pay no taxes for that portion of the purchase price.

Be sure to read through handling people as part of integration in Chapter 8, where we'll discuss some of these concepts again and in the context of assembling the two companies into one post-closing.

Managing Special Circumstances

Remember that certain circumstances will require special handling that can make closing and post-closing a bit more challenging. Here are some examples to illustrate.

Cross-Border Deals. Suppose you are purchasing a business in a different country. In that case, there are a whole host of additional documents, filings, and considerations that you may have to handle in addition to the standard documentation you need in your country. It's also likely that you will have additional lawyers and accountants involved from the other country. Some countries dictate a specific chart of accounts for all companies in their country that may not easily translate to the chart of accounts you use at your company. Industries with limited licenses or strict regulatory rules may involve more complexity. All the professionals must communicate and coordinate to ensure that everything has been adequately prepared and that all documentation and filings are done as required.

Special License Situations. As mentioned earlier, but worth reiterating, if your industry has tight licensing requirements, you may also have some special documentation and processes that you need to follow. In some sectors, licenses are tied to companies and cannot be transferred, meaning a share purchase is mandatory if you are trying to buy those licenses. That may also mean you have to go through an extended regulatory approval process for your acquisition to be approved by regulators. The documentation and process all need to be adjusted for these particular circumstances.

Simultaneous Closes. What if you didn't buy the whole company? What if, as part of getting your funds together for the purchase, you made a side deal to sell off a particular asset (for example, you agreed to sell real estate and lease it back) and you have simultaneous closings, i.e., the purchase of the business and the resale of the real estate happen at the same closing table. All of that documentation has to be prepared and ready at closing.

Other situations. Every unique situation can be handled. If you have a sharp deal attorney, CPA, and tax advisor, then you have to work closely with them to ensure all the processes and paperwork needed at closing are done. You don't want to deal with a missing document or a botched procedure at closing. Be prepared.

Last but not least, especially when there are special circumstances, avoid shortcuts because they will cost you more in the long run. Get proper agreements for everything that needs to be covered in the transition from the seller to you.

Escrow / Closing Process – Putting Everything Together

Having a single, impartial party review documents, handle money transfers, ensure critical aspects of the deal are adequately reviewed and certified, and generally assemble a closing package that both parties are comfortable executing is invaluable. If you have real estate included in the deal, this is obvious. You need the closing process common to real estate transactions, including title insurance. People don't always realize the need for an escrow agent or an impartial closing attorney for M&A transactions, but they are invaluable.

Something to keep in mind as you get to the closing table is that timing is critical to the process. You may need to push the date if everything is not ready for closing. You may be looking at two ways of handling closing that affect how the closing and escrow processes are conducted:

- **Sign and Close** – This is where you sign the agreement, pay the money, and everything transfers right at the closing table. Similar to a real estate transaction, when you sign the docs, everything (including financing) has been put together before you get to the closing table, and one party pays money, signs documents, and then receives the keys from the escrow agent (that have already been put into escrow by the seller). Everything changes hands at closing. This is a common approach for SMBs because of its familiarity.
- **Sign then Close** – This is used for more complex, often higher priced deals in which all documents and other elements are completed and signed before closing. That includes signing the purchase agreements and putting money into an escrow account pending the closing process. When you get to the closing date, some supplemental documents get signed, either indicating nothing has changed or documenting what has changed and adjusting the deal as necessary. The closing becomes a reconciliation and exchange.

With either approach, the documents needed to close the deal are assembled during due diligence. With a “sign then close” approach, those documents are executed while everything is reviewed and prepared. Sign then close requires the PAs to include termination clauses that allow you or the seller to back out of the deal before final closing. Those terms will also specify how and why the agreement can be terminated before closing. Closing attorneys or escrow agents help ensure either process is executed correctly, all documents are appropriately crafted, and everything changes hands when it should.

Although they are good to have even for smaller deals, the more complex the deal, the more valuable using closing attorneys or escrow processes will be. They provide neutral, professional oversight and finality for both sides and a final layer of assurance as the money and possession change hands, the same as in a real estate deal.

After the Close

Contrary to popular belief, closing is not the end of a deal. In almost every deal, certain aspects linger past the closing. Generally not complicated and always encapsulated in the deal documentation, some of the post-closing processes that you should keep in mind as you work through your acquisitions include the following:

Regulatory Filings. Ensure that all regulatory filings get filed and that you adhere to the regulatory requirements. This includes changing tax registrations, filing for business licenses, foreign entity registrations as necessary, and more. For each deal you work on, make sure that your legal team is preparing a list of the regulatory filings that will be required post-deal, including timeframes in which those filings are due. Missed filings result in fines and penalties. Save your money for the next acquisition. Complete all necessary regulatory filings promptly.

Accounting Adjustments. Most deals require accounting or net working capital true-ups just after closing to account for transactions or expenses that cross over or straddle the closing date.

Ensure the paperwork has been prepared to handle these eventualities and that you have a timeframe and a plan for dealing with them post-close.

Handling Holdbacks. Holdbacks are held in escrow for some of the adjustments above or future payments required upon achieving some particular deal aspect (e.g., obtaining regulatory approval of a limited license). In these cases, an escrow agent or attorney ensures the achievements and payouts are correctly tracked, documented, and paid promptly. You will likely be required to provide some notification or report that controls the release of these funds.

Rollover Equity. If you used your equity as currency to fund the purchase, you must deliver that equity immediately following closing. This includes ensuring all agreements for it are (or have already been) executed and all share certificates (whether physical or virtual) are validly issued and delivered.

Earnouts. When some of the payment of the purchase price is based on the acquired company performing to a specific set of standards post-closing, you'll need to make sure that the earnout milestones are appropriately tracked and that money is paid to the seller upon the achievement of those milestones per the purchase agreement.

Again, all of these post-closing aspects of the deal will be contained in the deal documentation. Your deal team must review each documentation set, assemble a checklist, and plan to ensure all the post-closing aspects are handled promptly. You will avoid issues if you do that as a normal part of the deal process.

Summary

At this point, you have a closed deal and are poised to handle any post-closing deal aspects. Your confidence level should be high. Having read this chapter, you are ahead of 70% or more of the other business owners who have never been through an acquisition and, therefore, know little about them. Even if you only use this information for the sale of your own company, you're more prepared than most to handle that process successfully.

But that's not why you're reading this book. You're reading this book to grow through acquisition and score a big win on your exit. Next step? Integrate the company you just bought. Let's talk about how you do that successfully and defy the naysayers so worried about that part of the acquisition process that they stay on the sidelines instead of going for the big win.

CHAPTER 8 – INTEGRATION: Effectively Blending Strengths

Recall the junk drawer analogy from Chapter 1. If, after you've completed an acquisition, you have an even bigger mess with more stuff and people from another company all crammed into your current company, then you've failed the acquisitions success test. An acquisition that produces no benefit or causes greater chaos is not successful.

Many business owners fear this result and shy away from acquisition-fueled growth because of that fear. But integration doesn't have to be scary. If you start thinking about and preparing your integration plans before completing the deal, you should have a smooth integration experience. Additionally, if you are considering integration during the deal process, you are more likely to buy good-fitting companies.

Integration is not and should not be made complex. In this chapter, we'll talk about how to think about and prepare for the integration process during due diligence, such that when you do the integration, it becomes just another part of the process. Additionally, the thought process and preparation method we'll discuss in this chapter will become routine after just the first time through. Once that process is routine, you will never fret over or fear another integration. Instead, you'll be anxious and impatient for the success and dramatic growth on the other side.

Planning & Preparation

In Chapter 4, I introduced you to the concept of the Seven Ps. Planning and preparation for due diligence and integration directly lead to an acquired company's successful integration. Your preparation work and action plan must include the discovery necessary for rapid and orderly integration. As your team reviews the initial screening questionnaire and due diligence checklist and customizes it for your acquisitions process, they need to include this chapter's integration considerations. With questions and discovery tasks that anticipate integration and not just acquisition, your team will be better prepared and able to handle the integration than they would otherwise.

As previously discussed, each target company is different, even if they are essentially the same type and size of company. Details matter. As you prepare for target outreach, your team should adjust the initial outreach questionnaire to ensure it probes possible integration factors. Eliminating a company from consideration early for insurmountable integration issues saves you and your team considerable time and frustration. Proper screening also prevents "deal heat," which is where you can't give up on a bad deal ("We've come so far – we can't give up now!"). Remember: Deal heat equals regret.

The screening process should produce clear LOIs and set the stage for successful due diligence. It should drive further refinement of the due diligence checklist, ensuring it accurately directs your team to the information and discovery needed to confirm deal parameters and integration plans. Although it will be impossible to learn everything (something always gets missed), the preparation and planning that go into due diligence should ensure that nothing significant gets past your team. When properly prepared and executed, the "gotchas" that get past you and your team in due diligence will be minimal and easily overcome. You will get the information you need to move quickly and surely through integration.

Throughout this process, it's essential to trust your team. You put this specific group of individuals together for a reason. They are the ones you have entrusted not only with helping to acquire quality additive companies but also with integrating those companies once the acquisition is complete. If you have adequately prepared them for the full extent of their participation, then you must trust them to get the job done right.

Finally, a target company's "integration readiness" must be a "go/no-go" criterion on your acquisition checklist. If the target company will result in a challenging, costly, or time-consuming integration process, it's a "no-go." Walk away. Remember, the goal is to acquire and build for your exit. If you are taking on a lengthy and complicated integration, it's the wrong target. Move on to a better fit.

Stuff

Especially for an asset purchase, identifying and understanding the target company's "stuff" is crucial to deal structure, documentation, and integration. "Stuff" means all the valuable tangible and intangible assets the target company possesses, including equipment, products and services, brands, customers or clients, and more.

During due diligence, your team must assess the target company's stuff to determine its integration path post-closing.

Products and Services

Start with what the other company offers to its customers or clients. What do they sell? Do those offerings overlap with yours? Do they complement or supplement your offerings? How? Is the overlap a good fit, or have your products been competitive and for good reason? If the products or services don't fit, think about how it doesn't fit, whether they can be made to fit without a lot of extra effort, and if not, if there might be some other company that might be interested in acquiring that product or service from you either at or after closing.

Also consider the other company's products and services from a branding and market position perspective. Are their products or their brand stronger or more highly recognized than yours? Do they target a different demographic than yours? If so, is that demographic additive or overlapping?

Investigating the other company's offerings across multiple aspects is essential. I was involved in one integration where the target company was acquired to eliminate a competitor product from the market. The goal was customer absorption. Unfortunately, many of those customers chose the competitor's product because they didn't like the acquirer's product. They liked the target company's features and functionality better. Many of those customers left for a different product within a year despite the acquirer's best efforts to build the target company's features into their product. While the acquisition was not a failure, this customer exodus reduced its value significantly. Be careful that this type of underlying arrogance, believing that customers will naturally see the superiority of your product with the other company's features added to it, doesn't lead to poor acquisition choices.

Equipment

Different industries use different types of equipment to deliver their products and services. This ranges from laptops to heavy manufacturing equipment so tightly fit into a building that it becomes a fixture. You and your team should know what equipment requires inspection and assessment.

Think about what they have that you don't have and vice versa. Assess what to keep and what to jettison. What's being used now? For what purpose? One of the products or services you don't want or need? If something needs to go, determine how quickly it can go. For equipment you don't need and want to eliminate, will someone else buy it at or after closing? If there are equipment gaps where something necessary is missing, how will you bridge the gap, and how long will that take? How much will it cost? Consider equipment in terms of facility use as well, especially larger or heavy manufacturing or specialty equipment. Can that equipment even be relocated?

Assess vehicles, trailers, and other mobile equipment. Are they in good condition? Do you need them? All of them? What is the cost of keeping them? Is there a benefit to getting rid of them? Are they owned or leased, and is this an asset or a share purchase? For an asset purchase, what are the costs of transferring the vehicles? Are there any re-titling or contractual transfer costs? Be conscious of the measurable utility of the assets, whether they are complementary to your assets and operations. Post-integration, how many are required?

Sometimes, acquired companies have better stuff. Plan how you might retire some of your fleet and reduce costs. As you work through diligence, inspecting and assessing vehicles and other rolling stock, understand how it fits, how the integration will occur, and how long it will take. If, after diligence, you have a fleet integration plan with "keep" and "dispose" designations not only for the target fleet but also your own, then you probably have a good plan.

Don't worry too much about small stuff. With smaller assets, you need to think more about systems and processes and how those smaller assets are used. Accounting for smaller assets is important (you want to ensure they are being tracked and properly depreciated) but not nearly as impactful as assessing and planning for more significant assets. Don't worry too much because, with few exceptions, from an integration perspective, they work themselves out quickly and without much impact on the business.

Remember that you need to know what assets are part of the purchase for an asset acquisition. As your team works through the equipment the other company owns, be sure they are cataloging them and making the determinations discussed above. Figuring out what you want and don't want is part of putting together the inventory for the asset purchase agreement. Keep in mind that it may be easier to specify what is not being acquired (e.g., "All desktop and laptop computers EXCEPT [list specific ones that are not being acquired].").

If you are doing a share purchase, remember that *everything* comes over. Your plan will be more about what happens after everything is yours and less about what you want and don't. The exception to this might be larger equipment that might be sold at or after closing to help pay for the deal. As with an asset purchase where you acquire and immediately sell, with a share purchase, you will own it after you buy the other company, so you can shed or sell off assets to create the most positive impact on your numbers.

Customers and Clients

Chapter 7 discussed assessing customers and clients from a financial review perspective. Here, we want to consider other factors, such as the "We didn't buy from you because we didn't like your product" issue I mentioned above. Your team must assess the customer list for the obvious factors and the not-so-obvious aspects of maintaining or preserving customer relationships post-closing.

Consider whether you and the other company share customers or if they're all different. Assessing products, services, and brands becomes more critical if the customers are the same. You need to understand if you want or need those additional customers if you have different customers. Do their customers need what you offer or just what they offer, and how are you handling those products? How hard will it be to keep the customers or get them to purchase the additional, supplemental, or complementary products or services you offer? Do they naturally need them, or are there insurmountable differences that require a more complex integration approach?

Also important but often overlooked is how the target company communicates with its customers. How do they service or support their customers? How does that differ from what you do? The customer service or support approach may be the differentiator that made the customer choose the other company. Can you incorporate or leverage their methods, systems, and approaches, or are they too different? Does using their communications methods present a future model for your company, or do they represent a management challenge? Whose methods are better and why?

Customers or clients can be a fickle bunch. Don't shortcut the analysis of what they want or need, what made them choose the target company's products or services, how that fits or impacts your business, and whether the differences present an opportunity or a challenge that will distract from the more significant goal. Determine what must be done to communicate with those customers, transition them, or entice them into acquiring more products or services and being happy, referenceable customers or clients. Are the target company's products attractive to your existing customers? Will cross-selling the acquired products increase revenues simply by selling them to existing customers? Ensure your team considers what it will take to preserve the short- and long-term client base. What are the next steps? You may need different plans by customer group. It may depend on what they use or purchase, whether they are one-time, short-term, or long-term customers.

Other Stuff

Delivering products and services to customers and clients often requires something unique. Use the examples above to evaluate this other stuff to ensure your team is planning for integration of the other stuff you may not have considered until after diligence began. Again, trust your team. They will have good ideas about what might work and what will not, even if you have to make the final decisions.

Systems and Processes

Combining disparate data sources is another critical and challenging aspect of integration. Even now, some industries or businesses still have clunky old systems. Others have highly industry-specific systems that are hard to replace. Integration of data systems also suffers from problems with data being stored differently, including naming conventions that require adjustment before one dataset can be harmonized with another. Ways in which similar functions are described differently between one company and another cause problems not only in systems but also in personnel training and management processes. Computers and software are business friends, but they can also be seriously problematic, often due to the decisions and whims of their human masters.

Review systems and processes during due diligence and determine what is used to do what. Look at the data and assess its cleanliness and quality. Determine the usefulness of the systems, processes, and tools used to acquire and process that data. Compare how the other company performs certain functions versus how you do it currently. Decide or at least develop a plan for how the two ways of doing things will become one.

If the other company uses the same software and has a similar implementation of that software, it makes everything a lot easier. Contact the software vendor to find out what it takes (money and time) to migrate or combine data from two instances of their solution into one and factor that into your integration costs. Plan to start merging the two systems as soon as practical following closing.

If they have different software, then you will be making one of a few possible choices:

1. **Best Solution Wins.** Most often, one system will be shut down, and all will use the remaining system. Acquiring companies often declare their system the victor without adequately assessing the target company's system. Don't make that mistake. The challenge is determining which system is best suited for the consolidated company. If your team is unfamiliar with the software the other company uses, they need to get a complete walkthrough as part of due diligence to determine how they want to proceed post-closing. Don't wait for closing. Keep an open mind and see if the other company's system is better: more capable, flexible, or easier to use. If one system is clearly the winner, go with it. It's okay if that's the target company's system. It means you just bought an upgrade. If you can't determine a clear winner, choose one of the following two approaches instead.
2. **Neither Solution Wins.** Sometimes, neither company's system adequately addresses a particular need, which may become more extensive and complex in a consolidated company. In that case, find a new product that is more capable than either of your systems and plan to migrate the entire company onto a new platform. For this choice, think big picture: you are on an acquisition growth path, and whatever the new system is, it needs to accommodate all the planned acquisitions that need to use that solution. If you go with a whole new system, don't skimp

on the professional services to complete this. From many years of managing software services teams, I can tell you that no matter how easy the vendor says it will be, it won't be. You will get tripped up and need those consultants to figure things out. They will help ensure your future system is configured to accommodate all your planned growth. If a new system is the solution, get quotes and budget for the new software and implementation cost. Alternately, think about possibility number three, which could allow you some time to integrate partially, raise additional capital for software and related services, and then implement later when you have even more inputs to the plan.

3. **Temporarily Run Parallel.** You may need more time or help determining which solution is better. The target company may have a system that cannot easily be replaced due to unique integrations, control mechanisms, or custom code implementations. If a victor cannot be determined, plan for the systems to run parallel while you evaluate and determine a solution. Timebox the evaluation. Don't allow multiple systems to be used for a single function for an extended period. You need your operational data in a single system as soon as possible and before your planned exit date.

The options above apply to both systems as well as processes. These days, most processes rely on automation. However, there may be processes that are in place outside of systems. Or the systems may enforce those processes through automation. Processes for similar functions or purposes that differ between the companies must also be harmonized during integration. Be sure your team looks for synergies and improvements. You and your team must be open to change. Stay focused on the prize.

Places

Places include any building or facility leased or owned by the target company. Each place the target uses must be evaluated, and a plan devised for handling it post-closing. That involves a few key considerations that we'll review here.

One of the first evaluations your team should perform is whether the places are helpful to the future combined business and, if so, how.

Good or Useful Space. Ask how space is currently used. Is it fully utilized? Are there ways to improve its utilization level? Are there adjustments the other company's team has thought about but never had a chance to execute? Can you execute them, and what is the potential impact on the business? Will productivity increase? Will that investment flow to the bottom line, or is it distracting? If the target has space that currently houses critical business functions, works well, and has room for expansion, then acquiring and utilizing the space probably makes sense.

Redundant Space. It is also likely that you will encounter redundant or unnecessary spaces. Sometimes, a crucial aspect of consolidating administrative functions is getting the entire team into a single facility. That may render the other facility redundant and unnecessary. Alternately, the consolidation of redundant spaces should be approached as if the redundancy opens space up for the expansion of other critical functions. Can the section of the other company's building that houses their managers and administrative functions be repurposed into additional production space? Sometimes, redundant space is just that: extra. For example, what if the other company's administrative offices are entirely separate from the production facility, and once you move those folks in with your team, their place is no longer useful? In these cases, you want to eliminate the space and its associated expenses as soon as possible post-closing. Carefully assess every space regarding its usefulness to the future consolidated company and determine whether redundant spaces can be utilized or not.

Unused Extra Space. Companies frequently have extra space in an oversized building they own or lease. Sometimes, space is used unproductively. One company I assisted had an entire warehouse adjacent to their main production facility. Twenty percent of it was used for shipping and receiving. The remaining eighty percent was either unused or filled with junk. At the same time, they had an administrative team sitting on top of each other in a tiny room where mistakes were happening regularly because of the need for more space. Five hundred dollars of paint, eight hundred dollars of carpet, four thousand dollars of office furniture (altogether just over $5,000), and the front space of that building was converted into administrative and meeting space. A rollaway dumpster and half a day's work cleared the junk from the rest of the warehouse and got it ready to serve as production expansion space. In less than a week and for less than $5K, a space was transformed into available production space, and the accounting and administrative issues were eliminated.

The critical question for unused space is whether you can use it quickly and cost-effectively. New space may be part of the bargain for the acquisition. Does it need work or special preparation before you can use it? Can you afford that work? If not, then look at getting rid of the space. If you can use it, and expansion will result in operational and sales growth, then ensure you plan and budget for improving the space, set it up for use, and utilize it as quickly as possible. And if your plans to use it don't pan out or won't for an extended period, get rid of or sublease the space to someone else and collect the additional rent revenue.

Leased Space versus Owned. After assessing the usefulness of the space, determine whether the space is leased or owned. This is a crucial evaluation aspect. If the target company's places are leased, that requires different analysis and planning than owned spaces.

- Owned spaces require an analysis of whether the space is fully paid, how much it adds to the purchase price, and how it affects the deal's financial structure and ongoing acquisition expense.
- Leased spaces require assessing the lease (especially for an asset acquisition), the maintenance costs, and the cost and value of utilizing the space.

The paramount concern in the leased versus owned space evaluation is financial. Weigh the cost of the space against the value it could contribute. Understand the ongoing cost of paying the lease (including annual increases usually built into that agreement), continuing to pay on a mortgage, or paying on a new mortgage used for its acquisition. Then, factor in how the space could be utilized. Utilizing space has to balance the cost of building the space out and equipping it against the additional revenue using that space would contribute. If the value of the space materially outweighs the cost of that space, then you will not only want to keep it in the deal, but you will want to add that utilization plan into your integration efforts.

Consult with tax advisors before making an acquisition or disposition plan. Your accounting and operational team needs to ensure that the plan for the space justifies the cost of acquiring the space or assuming the lease.

The next aspect your team should consider is whether and when you can change the space. If you have expansion, migration, or renovation plans, these must be balanced against your rights as either the owner or the lessee. Can you even do what you want to do? This has to factor into whether the space stays in the deal and how it is included in the integration plan.

What if you decide not to keep it? Disposing of or carving out a place from the deal has to be done differently depending upon whether the space is leased or owned. It is generally easier to carve out an owned space than to avoid assuming a lease. If you decide to keep it, you need to consider how long the lease will go and whether that duration is long enough to suit your plans or not. If you buy it, you need to be sure that the space will survive and be sufficient through your exit.

Asset versus Share Purchases Revisited. Deal type is another integration plan consideration.

With an asset purchase, your first concern, especially for places your team wants to keep, is to ensure you can assume the building lease. As mentioned, that requires lease agreement reviews, permission from the landlord, and documentation. For owned spaces, you need to determine whether you want them in or carved out of the deal.

With a share purchase, you will take over everything that the company you are buying had in place at the time of the sale UNLESS (and this is key for your legal team to review) any contracts refer to a change in control, a change in ownership, or some similar language that forces a novation (or express re-approval) of leasing or financing agreement(s). Carving a property out of a share purchase is usually a sale of that property at or after closing.

Keep or Dispose. At this point, we've covered how to assess the places and determine whether they are valuable and feasible for the consolidated company. We've discussed the differences between leases and owned premises and the evaluations involved. We've also revisited the asset versus share acquisition process and how that impacts your decisions for places in both the deal and afterward. Your team should now have all the information it needs to decide how to handle the other company's locations during the integration process. Will you keep them or get rid of them, and if the latter, how?

Here are some ways in which those spaces can be handled as part of the deal structure or as part of the integration. These solutions are not intended to be all-inclusive, as every deal is different, but are ideas to consider.

1. **Keep the space.** If you have a use for it, if it makes financial sense, and if no issues prevent you from keeping it in the deal and integrating it with your existing operations

post-closing, keep it. Make sure it's in the deal documentation and factored into the deal structure and acquire it.

2. **Keep it temporarily.** Other than keeping a facility, this is the second most used option. Often, you cannot get rid of a facility immediately because it is in use. Keeping a facility again depends on whether it is a lease or owned and whether this is an asset or share purchase. Here are a couple of scenarios for temporarily keeping the facilities to consider:

    a. **Leased Premises.** If the lease expires soon after closing, it could give your team enough time to move the operations into other facilities you currently own or lease. In that case, ensure the building stays in the deal and plan the move-out post-closing. If the lease goes longer and the market price is more than you are paying, find a third party to sublease the facility or someone else wanting to assume the remainder of the lease after you've moved out.

    b. **Owned Premises** On the other hand, if the facility is owned, and you don't need it long-term, but you do need it long enough to move out, then you can handle this situation in several ways:

        i. Carve the building out of the deal and get a short-term lease (long enough for you to move out) on the space from the seller. The seller then keeps or resells the property at their option.

ii. Keep the building in the deal, move out post-closing, then either lease the space to earn income from a lease or re-sell the property.

iii. Keep the building in the deal, and find another buyer to acquire it at closing. In this instance, you will have two closings (likely simultaneous): You buy the facility from the seller, and then a third party buys it from you (money that can help with the target's purchase price). The money from selling the building to the third party can then be used to pay the seller at closing. As part of the sales agreement, the third party agrees to lease the facility to you short-term until you can move out.

3. **Carve it out.** Sometimes, a facility isn't necessary to your plan post-closing and may not even be useful at closing (e.g., empty extra spaces). In that case, if it is a lease, don't assume the lease as part of the deal. If owned, carve it out of the acquisition and let the target company owner sell it post-closing or at closing to a third party. Note that you must be very careful about timing when carving something out. Carve-outs of actively used places usually require some temporary arrangement, as described above. Generally, only unused places can be wholly carved out

right at closing. Carveouts of owned space in share purchases require additional deal structuring and documentation. Work with your deal attorney to get that put together. Alternatively, keep it and sell it post-close.

The bottom line on evaluating and integrating places is to make sure you are carefully evaluating the other company's spaces during due diligence. Determine if you need them, need them temporarily, or don't need them at all. Consider whether the facilities are leased or owned and what kind of a deal (asset or share) this will be. Then, make a plan for how you will utilize and maximize the value of that space (which may be to sell or sublet it) and get that plan put into motion as soon after closing as possible.

People

People are the largest, arguably most important, and undoubtedly most complex aspect of any integration. People involve personalities, emotions, ambitions, expectations, talents, communication styles, etc. A company's people are organized, assigned, tasked, managed, and evaluated. Without people and all their unique little quirks, capabilities, and drives, most companies would die. Integrating people requires understanding, planning, and humanity.

At the end of 2019, the division I led was slated to more than double in size in product manufacturing, distribution capacity, and headcount due to a significant acquisition. More than 130 people would join an existing team of just over 100 (through the prior integration of 4 other companies). The acquired company's production processes, equipment, and facilities also completely differed from anything else we had, further complicating the people side of the equation.

Company culture was very different, with the division of the acquiring company I led being decidedly more “corporate.” In contrast, the acquired company was a scrappier operation with many longstanding personal relationships fueling its success. Several top leaders from the acquired company would be cut from the roster at closing, leaving a leadership gap on day one (a decision made by others that I could not change). I knew we had to stay focused on production and revenue targets. The most important thing was getting people together and cooperating. The rest of the disparities would have to work out over time.

We planned an “after-the-holidays” party for the first full week in January to enable as many as possible to attend. The deal was expected to close and be officially announced that week, but everyone knew it was coming. So, I instructed my team to invite everyone from the soon-to-be-acquired company to our party. They were already a partner/vendor of ours, so even if the deal slipped, I knew we could still get away with getting together for an extracurricular get-together. Luckily, the deal closed as scheduled, and at the party, I ensured everyone knew that we would very soon be working together.

After the party, I told my department heads to involve people from the new acquisition immediately, even though they weren’t yet working on anything together. They responded by informing each other about the projects they were working on and started talking through issues and collaborating on solutions. In short, the directive was, “We are, right now, one team – start working together to keep driving revenue and customer satisfaction with our products.”

In the latter part of March 2020, just as the COVID-19 pandemic was beginning to reach peak hype levels, I met with the directors of marketing, production, and sales of the newly acquired company. They reported feedback from their teams that, only two months after the closing date, everyone already felt like they were part of the larger company. In contrast, they reported that on a recent call with their colleagues in divisions of the company that I had no control over, none of those other locations had even a fraction of the level of integration we already had in our division. We had shed some people. We had plans to shutter one of the operations. We had some production and distribution issues, but we'd maintained or grown our sales in nearly every category. At the same time, the other divisions were either declining or barely maintaining pre-merger performance.

"Integration" can be a terrifying word. But if you stay focused on the goal, get people working together immediately, trust and enable your teams, make intelligent decisions that are also focused on those goals, and remain consistent in your messaging, then "integration" becomes little more than getting together and rowing the boat together in the same direction.

Organizational Planning & Evaluation

The first step to successful people integration is considering where the new people fit into or supplement existing staff. Review the other company's organizational charts, policies and procedures, and management and other employee records as part of due diligence. In reviewing this information, you must understand how the other organization fits or doesn't fit into your organization. Understand the purpose, structure, and roles of the target company's departments.

Compare them with your own. Look for duplication, disparities, and synergies. Discuss with your team how the other company could be integrated, redistributed, or added to your company's organizational structures to achieve the best possible results. From this exercise, even before you close, you should know how the combined company will be organized and where the lines of integration will be drawn.

As part of this planning, and following the preceding discussions about stuff, systems, and places, consider the people aspect in the context of the entire business. Where do the various teams (both new and existing) work? Do you need to consider differences in systems, processes, equipment, or tools? What about products or brands? Will any be getting discontinued? Will any of your brands or product lines be integrated into a newly acquired brand or line? Are there unique capabilities, equipment, technologies, or processes in your company or the acquired company that will require an adjustment or modification soon after closing? Each of these factors may impact people decisions.

The next step is to develop a plan and timeline to get to that combined organizational structure. You may be able to make some changes very soon after closing. Other changes will take longer. Take into account the integration process related to facilities. Working in different locations can extend the integration process. Marketing or production plans related to brand integrations or eliminations will also affect the timeline.

Within this plan, you also need to designate milestones or checkpoints. When will you know when something has been achieved that will trigger the next step in the process? More importantly, what success metrics need to be achieved to move to the next step?

Be careful that your plan and timeline are not overly rigid. Be sure to build in ways for those metrics to be realized SOONER than a planned milestone or checkpoint. Don't handicap your integration process with artificial dates if that's not necessary. If your team over-achieves and you are ready to move forward sooner, ensure they're empowered. Fast and smooth integrations are driven by people who are enabled to innovate through change and combine talents, experience, and resources to produce quality results as quickly as possible.

Don't allow your managers to wade through the weeds and force your people to follow behind. Get them up on a platform, making sure that the in-the-weeds team understands the direction and goals and allows them to determine how best to whack the weeds and achieve those goals. Too many companies handicap themselves with artificial controls to try and prevent mistakes rather than stay focused on results. Ensure your people plan enables and empowers your current and future team members.

While some ability to evaluate new team members will be possible during due diligence, it's best to wait until after closing. Once again, people evaluation is about achieving results. Those results must be achievements that move the company forward, that lead to integrated operations, and increase revenue and profits. Efficiency and cost savings are sub-results. Results may be as simple as "They have that equipment, we have this equipment – figure out how to make it all work together within the space of this room or building – Go!"

The military teaches problem-solving, leadership, and results orientation with confidence courses. One that I recall to this day equipped a team of 5 or 7 people with a rope, a barrel, and two steel poles, giving them five minutes to plan and ten minutes to get over a water obstacle and a wall. The goal was to get everyone on your team and all that equipment to the other side within the time allotted. As the team worked through plans for accomplishing the mission, a rater would listen in, answer questions, and nix any plans that were unsafe or against the rules. The team had to collaborate to accomplish the task. The team I was on had one of the fastest times on the course that day because we communicated, collaborated, and cooperated our way to success.

Once you see both your people and the new people working together to attain results like this, you will be in a much better position to evaluate who stays, who gets reassigned, and who should be let go. The more enabled and empowered work environment you have, the more likely you will be able to retain as many of the combined team as you want.

All managers need a plan for evaluating people who come into their department. Are they a fit? Are they doing the proper role? What do they do great (what is their superpower)? Is that superpower useful to the company? Useful in their current or intended role? Is there somewhere else in the company where their superpower would be even more “super”? Have a plan to evaluate people within the first four weeks post-close and make things happen quickly.

Although not always possible, evaluate before you cut. Poll your managers to collect all inputs. Get perspectives on people from those who know them best: the incoming managers. Cut without looking back or feeling bad if you see an obvious cut. But send them off positively. We’ll talk about that more in a minute.

Management

During due diligence, you should evaluate the org chart, identify critical managers, and identify whether duplicate managers exist between your company and theirs for the same or substantially the same role. This is part of integration planning.

You may find that some of the acquired company's management team are indispensable. They may bring unique skills or expertise that you need. They may inspire followership in the other company's team members. Make sure you keep them and potentially even incent them to stay. And sometimes, you just need them to stay through integration.

If your management team members are decidedly better or more capable than the target company's managers, then you have options:

- Keep the target's managers for a determined period (generally 3-6 months and no longer than a year). Use that time to transition them from their roles and absorb their work onto your team or find them a new role in the combined company. Pay them to leave if no new role appears for them during this time. Be sure you have budgeted for this severance expense.

- In some cases, you can incent a person to stay short-term while they find a new role elsewhere in the company or with another company. That gives them time to adjust out of their role and still be paid while they find a new home. Make sure you give this to the right kind of people, though.

Not every manager is deserving of an arrangement like this.

- Cut them at closing. If your team thinks they can accomplish a transition of the other company's manager without that person ever coming on to your company, then (in the case of an asset purchase) have the other company give them a severance payment and send them packing the morning after closing In the case of a share purchase, give them a severance the morning after closing and send them home.

Employees

It's well-known that the single most significant expense on most company's P&Ls is labor costs. You will almost certainly trim some employees off the payroll to drive a greater return on your acquisition investment. As discussed from an organizational perspective, you may not know who stays and who goes right at closing. Making hasty decisions can result in cutting the wrong people. On the other hand, some cuts might be obvious. This is possible when you discontinue a product or brand or eliminate a production line at closing, and the team working that line or manufacturing those products is no longer necessary.

Compared with managers, you will likely find more labor duplication with employees. But labor reductions may not be possible on day one. You may need those people for a while. You have to plan it out. If it's unclear, give yourself a month to evaluate and decide, but don't spend more than a quarter letting things shake out. It's best to keep things moving forward; getting stalled on employee issues is not moving forward. In general, reduce whatever labor costs possible at or soon after closing. You can use the same options with employees as described above for managers.

For specialized or acquired functions that are not currently in your business, you must retain those employees, and you may also be looking for others in other roles who are interested in cross-training on that function. Rather than reducing headcount, you can immediately add capacity to an acquired product line or service. Always keep scenarios like this in mind when devising integration plans.

The bottom line for employees is to make sure you are considering where you can make immediate cuts, where you may want to shift people into other work areas, and where you need to take the time to do a more careful evaluation. Don't take too long. Don't worry too much about making mistakes. Focus on results, the people you and your team think you need to achieve those results, and forward progress.

Independent Contractors (ICs)

Many companies hire more independent contractors (ICs) than employees. The cost-cutting rationale is acceptable, but using ICs rather than employees potentially involves several problems to understand and address during integration. Too many IC contracts are quickly and poorly written and based on a form someone got from their uncle who downloaded it from an internet link they got from their buddy who "totally knows what he's doing." As part of due diligence, make sure your legal team is looking for the following three most frequently encountered issues with IC agreements and ICs:

- **Issue #1**: **Are they actually ICs or just employees in disguise?** Make sure your legal team scrutinizes their contracts for this. Be prepared to transform improperly classified ICs into employees or have them execute new contracts. You may also need to start paying them or having them pay for things they may have been provided free of charge before (i.e., uniforms, equipment, fuel, etc.). Remember that ICs are supposed to bring their tools and equipment and are primarily responsible for results. The more control a company has over what they do, how they do it, and what they use to do it, the more likely that person is an employee and NOT an IC. For more, see the IRS guidelines at https://www.irs.gov/newsroom/worker-classification-101-employee-or-independent-contractor.[4]
- **Issue #2: Loyalty.** ICs are generally free to cancel their contract and work somewhere else with little or no notice. Employers typically have "easy out" clauses for their own purposes, but if you acquire a company and several ICs cancel their contracts, you will have work to be done and no one to do it and will lose that revenue. Employees are bound; ICs are independent and know it. When they leave, ICs often go to competitors without you being able to stop them under most state laws. Be sure your legal team looks at non-compete, non-solicitation, intellectual property

[4] Internal Revenue Service. (n.d.). Worker classification 101: Employee or independent contractor. IRS. Retrieved January 8, 2024, from https://www.irs.gov/newsroom/worker-classification-101-employee-or-independent-contractor.

rights, and confidentiality clauses within all IC agreements to ensure you're protected.

- **Issue #3: Assumability of their Contracts.** If you are doing an asset purchase, have your legal team determine if the otherwise good IC contracts can be assumed. You may need to re-do those contracts, which requires extra time and legal money. If you are doing a share purchase, have the team look for "change of control" or "change of ownership" clauses in IC agreements and be prepared to address those issues with contract amendments or replacement contracts. If there are a lot of ICs, this can be a significant effort.

Remember that acquiring a company that relies primarily on IC workers involves unique risks. A thorough contract review during due diligence is a must. Bad IC contracts present an additional risk for share purchases, as many regulatory and governmental agencies use a change of control as an excuse to do an audit. If the old agreements are problematic, you inherit those issues (and their potential fines) with the acquisition.

Rather than relying on the indemnification clause in the share purchase agreement to protect you, get in front of these issues, make the changes that need to be made, and have the seller address any legacy issues that need to be remedied as part of the agreement. If you are making an asset purchase, you need to be able to assume those contracts, or you need to put new agreements in place at closing. For these, you'll either need paperwork to facilitate the assumption of the agreement or you will need to draft a new contract.

Compliance with Laws and Regulations

I'd be remiss if I did not advise you to check with your HR professional or legal counsel to ensure you comply with all applicable laws and regulations. This should happen throughout the integration of the acquired company.

Why to Send People off with a Smile

If you will be letting anyone go, whether at closing or six or more months later, it is always best to part on good terms. Be sure that your transition process provides people with a means for transitioning to whatever is next for them. Regardless of what others might advise, the negative hangover effect of being a nasty employer or ruthless acquirer is way more expensive than the money you spend to help eliminated workers transition. People have long memories, and you may need to hire new or additional people before you exit. If you have a reputation as an employer who cares about people, not only is it easier (and therefore less expensive and time-consuming) to find new people, but it is also easier to retain the people you keep. They will remember that you took care of their friends, and you will reap the benefits of the loyalty that kindness (actually, business sense) produces.

Avoiding the Pit of Integration Despair

Returning to the fear many business owners and leaders have of inheriting problems and enduring disastrous integrations when making acquisitions, here is one last section on avoiding that pit of despair.

First, delay and hesitation are absolute death. Just get it done. Don't overcomplicate or dwell on anything. If something you've acquired is problematic or overly complicated, cut it loose (whether that's people, equipment, product lines, entire company divisions, locations, systems, or whatever) and stay focused on your core competency. If you are having difficulties with the integration process, determine what's causing the complication and deal with it.

Work with your team, determine what the end state needs to be, and go there. Avoid overthinking things. Avoid the thousands of books that provide specific plans, guidance, and step-by-step instructions for handling integration. No such magic wand exists. The process in this chapter is what it will take to complete the process successfully.

I often see an integration get bogged down in the mud because managers or executives are so worried about making bad decisions that they let things fester and delay taking action. Rip it off like a Band-Aid. Stop worrying, invite that team to the holiday party, and get things started. If you think you will be selling off a division of the company or some other asset, don't wait. Find someone to buy it right now and get rid of it immediately.

Fear, uncertainty, and doubt (FUD) have no place in your growth through acquisition plans. Stop worrying about making a mistake. In the classic Al Pacino movie *Scent of a Woman*, Pacino's character memorably says about the Tango, "If you get all tangled up, just tango on." If you have done the kind of "Proper Prior Planning" combined with the flexibility we've discussed since Chapter 2, you will not make a show-stopping mistake. And even if you make a mistake, you (and your team) should know what to do about it and immediately put “plan B” into action. If you’re unsure what to do if something goes wrong, fast forward to Chapter 10.

You, your team, and all newly acquired team members must focus on the ultimate prize. You may want to set up some incentive program around the company’s growth where everyone from management down to rank and file has a stake (and a reward) in seeing the company achieve its growth goals. Those incentives can be as complex as equity and as simple as a company party to celebrate the achievement. Plan something impactful and motivating for everyone.

Having navigated the complexities of integrating acquired companies, we now pivot to sustaining the forward momentum. The ensuing chapter will focus on harnessing the synergies of your acquisitions to fuel ongoing momentum, ensuring that your growth is not just a series of transactions but a continuous ascent.

CHAPTER 9 – RINSE AND REPEAT: Maintaining your Acquisition Momentum

"People who succeed have momentum. The more they succeed, the more they want to succeed, and the more they find a way to succeed."

-- Tony Robbins

It starts as early as your first signed LOI. For some, it may begin even earlier than that. The excitement. The anticipation. You've started the acquisition process, and with even the first project going smoothly, you are ready to dive into the next. And the next one. And another one after that.

It won't just be you, either. Everyone in your team will feel it, too. Once they get started doing acquisitions, they won't want to stop. They'll see that the preparation is working. They'll see the effects that it has on the business. They'll get high on the process and constantly refine their tools to make it smoother and faster. Done correctly, in fact, almost everyone in your company will notice the uplift it has not only on the business and its ability to produce more products or deliver more services but also on the overall positive mental effect it will have. The company is growing. You have birthed an alpha dog, and it is expanding its abilities and gobbling up more territory daily.

Of course, it isn't quite that simple, but one success will make you wonder why you didn't do more sooner. That's a great feeling. More importantly, its effect on your business drives you toward that planned grand exit.

So, once you get the train rolling, how do you maintain the momentum and avoid the pitfalls along the way? How can you keep deals coming in so that the minute you finish one, you are right on to the next one? How can you handle multiple acquisitions at the same time? Welcome to Chapter 9.

Staying Focused on the Goal and the Process

More important than anything else is to keep your eyes on the prize. You may have been taught never to look right in front of the vehicle when driving. You always look out ahead of the car. If you look too close, you could be caught unaware of a hazard ahead on the road, and your steering will become erratic. You'll swing your car back and forth in the lane, trying to maintain a center lane position that would be much easier if you looked ahead instead of down. That is what you have to do with acquisition growth.

You have a certain level of revenue and profits in mind that you know you need to achieve your desired exit. That has to remain the goal, or you may need to return to Chapter 2 and update your strategy. Remember that simply filling a junk drawer won't attract a higher price. Every one of the companies that you acquire must become part of a greater, more capable, more productive, more profitable whole. Put another way, you can't simply collect eggs in a basket; you need to make a killer omelet out of them. If you don't transform that junk into a decently operating whole, it won't be attractive enough to fetch a higher valuation multiple. If you are following the process described in this book so far, especially in Chapters 5, 7, and 8, you should be doing great at finding and closing great deals and integrating those acquired companies into your own.

Stay in tune with your team, both internal and external. Know when they need time to finish. Understand the impacts of the deals, and be sure to adjust your process regularly. Never stop targeting – that must be an ongoing process. Have regular deal and integration process meetings and keep your finger on the organization's pulse. If things are starting to get wobbly, slow down a bit. If integration issues are causing your team stress, listen to what they need to address them. Slowing the train is one of many ways to address integration pressure. Sometimes, the next integration has the ingredients you need to cure what currently ails the team. To find out, you need to listen to what your team needs, go back to your strategy and targeting list, and see if there is a target on the list that solves the problem.

Sometimes, pressures or delays are the result of doing too much. Many athletes can tell you about when they "overdid it" at the gym or preparing for a marathon and got injured. Suppose you are doing sequential deals (one after the other) or parallel deals (more than one at the same time). In that case, you are at greater risk of integration issues, mistakes, or burnout than if you complete an integration of one acquisition before you move to acquire the next. On the other hand, if you are proceeding smartly and leveraging the processes described in this book, you can handle sequential or multiple deal processes. Let's discuss how to do that.

Handling Multiple Deals at Once

To handle multiple deals simultaneously or sequentially, consider the factors that affect the ongoing health of the business, you, and your team. This section outlines a series of potential adverse effects you must watch for and suggestions for addressing or preventing those adverse effects. Use your knowledge of these negative possibilities to create a plan that enables you to do more deals at once.

First, every deal requires the same relative amount of effort. You and your team will go through all the stages for everything you buy, whether large or small. If you take a shortcut, you are risking the success of the deal you shortcut. If you do more than one deal at a time, because of the limited bandwidth of your internal resources and the fact that you are also expecting them to handle their "day jobs," you will need the assistance of and spend more on external resources. Unless you have a treasure chest that you are using to fund your efforts, affordability is very quickly at risk.

Some acquisition experts talk about doing deals for little or no money of your own. While it IS possible to do that in some circumstances, in most cases, it's NOT possible in one critical way: your deal team. Unless you can find lawyers, accountants, and other specialists willing to work for free, you still have to pay those people to help you get deals done. As discussed in Chapter 4, your internal team members CANNOT do it all. You need external resources to help you. Experienced deal attorneys, even if their time is minimized and you use your in-house counsel for some of the work, still cost money. The more deals you do at once, the more you are spending to get their assistance. On your first deal, measure the costs and determine the ongoing per-deal cost of using those outside resources. Then, determine how many simultaneous deals you can pursue based on external team member costs alone.

Be wary of possible effects on the business as well. I was once called in to assist with a turnaround project. The company started backsliding when the founders took their eye off the ball to focus on M&A efforts. While they were otherwise engaged, their industry experienced not one but two significant changes, and they were left with products and services that no longer worked. Their client list declined by 60% in only six months. Although the slide was halted and reversed, the damage proved too deep. The founders lost their edge and backed out, trusting the company to a relatively inexperienced executive. The company went out of business two years later. Taking their eyes off the ball cost them their company. This is why you formed a team back in Chapter 4.

As the business leader, you can't shift focus entirely to acquisitions even as an EBITDA owner, as described in Chapter 1. You have to make sure you have time for the regular workings of the business with appropriate amounts of time spent on acquisition and growth. If you do more than one at a time and are not handling integrations as described in Chapter 8, you risk spending too much time on acquisitions and not enough on keeping the business on track. During your first two acquisitions, get an understanding of the amount of time that each acquisition requires. Use that metric to help you understand how many you can handle at once.

Diverting resources from the daily needs of the business can also be costly. Remember, those internal team members have day jobs. Unless you hire or task team members to a dedicated deal team (which may make sense), your team has to do the same balancing exercise we just talked about for you. You aren't just expecting them to help you with M&A work; they also have to handle your company's bookkeeping, marketing, or operations. When you started the acquisitions process, you took those internal team members at least slightly away from their jobs. The more acquisitions or integrations in motion at once, the more attention is taken from their "day job." Eventually, that will impact the business, even if the new acquisitions have additional people to help cover the work. As with the other dimensions above, when you are working through the first acquisition or two, have your team members determine how much time they had to devote to the M&A process and whether handling M&A and their day job was achievable, in their opinion or not. To the extent that it is, use that metric to determine how many simultaneous deals your internal deal team can handle.

Be careful of getting so focused on buying things that you stretch the company's credit to the edge such that any unforeseen incident could cause the whole thing to come crashing down. When working on financing more than one deal at a time, you are less likely to fully understand the combined financial impact of those acquisitions. Work with your internal and external accounting resources to ensure you have metrics, reports, and triggers that will alert you to the breaking point so you can keep your M&A efforts from reaching the tipping point.

Multiple deals increase complexity in the acquisition process and, through the integration process, in the operation of the business overall. You and your team must monitor the business's operational tempo to prevent overheating. Don’t be afraid to delay an in-process deal to keep the company humming or avoid overtaxing it.

Adjustment lags, or boomerangs, occur when you think something is done, but it never quite gets there, or, worse, something breaks, and you whip back into the original position before the change. If these occur while you are in the acquisition process, you may need to pump the brakes. The more you do at once, the more likely it will be that something never gets a chance to adjust to a new normal properly. You need the business to keep up with the demands of the M&A cycle, or you will have problems.

Speaking of the new normal, another aspect to keep your eye on as you work through acquisitions is the potential for cultural overload. If your team is experiencing too much change too fast, key people may get demotivated or demoralized or feel like they don’t matter anymore and leave. This is more likely with multiple deals. Ensure your managers keep their team members' pulse and watch to see how well new players meld with the existing ones. Have your HR manager or consultant assemble employee engagement monitoring campaigns to get feedback from folks who may not feel comfortable stepping forward to present issues. Sometimes, when the company is rolling forward at full speed, people don’t feel comfortable in the role of killjoy. They don’t want to say things aren’t going well because they fear backlash or its negative effect on others. Give them an anonymous backchannel to ensure you understand how your team is handling the integrations you are challenging them with.

A tactic to consider if you want to do multiple simultaneous deals is to make them disparate. Multiple disparate deals, in which you buy different assets simultaneously, are more doable and practical. Different target company types require different diligence and integration processes and likely different team members. The focus isn't the same if the targets differ, which may allow you to do more with the same resources. If you buy one operating company that pulls time from your operations team and then acquire some marketing or brand targets that tax your sales and marketing teams but not operations as much, that could provide you with a multiple deal process without causing overload.

The bottom line for multiple simultaneous deals is to do only as many as your team and bank account can.

Sequential Acquisition Timing

Whether doing multiple or sequential deals, ensuring you have the timing right is critical. This refers not to market timing but to project planning and execution. As mentioned above, managing the timing of your deal pipeline depends on your available resources and your team's ability to manage the integration process.

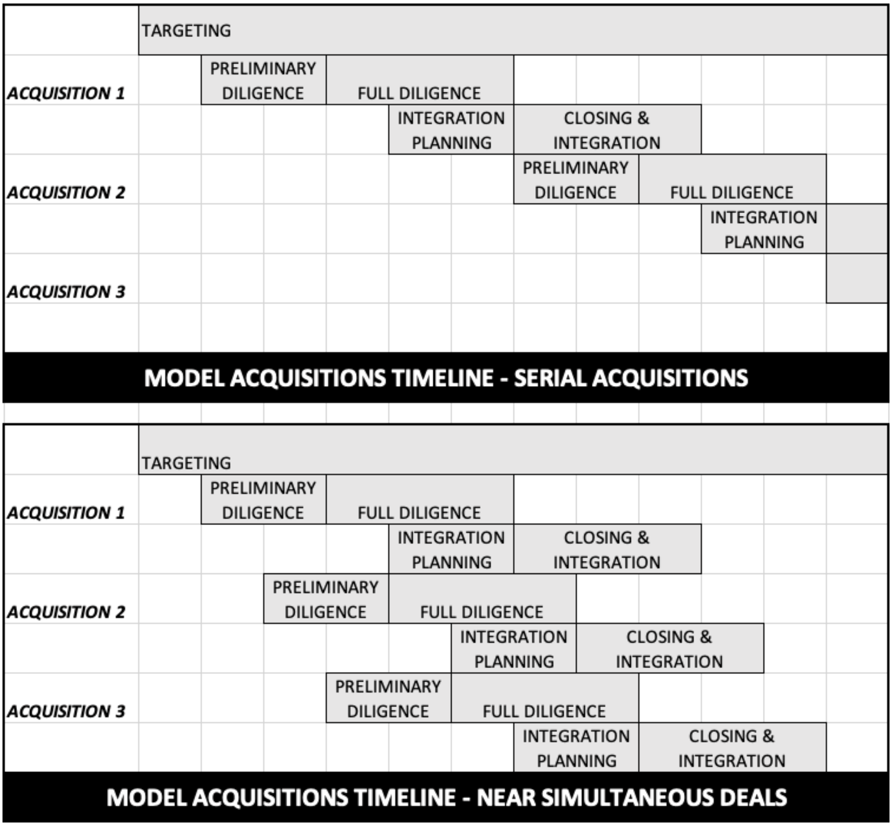
Many of the same issues you have with simultaneous deals are also in play with sequential ones. Note also that if you cannot handle sequential deals, your team can only handle multiple simultaneous deals if you do disparate deals, as described above. Sequential deals tend not to be as additive to the M&A team's workload because the overlap is less. With sequential deals, though, be worried about fatigue. Unless you have a dedicated deal team, they might need to catch their breath between deals. But growth by acquisition is all about one, then another, and another, so you must be able to handle it, or you need to learn where the breakdowns occur to address them and keep going.

As emphasized throughout this book, having solid plans is essential. When determining timing for sequential deals, consider what resources are used on what tasks and how those overlaps can work. Below are a couple of example Gannt charts to help explain how the timing of deals might be accomplished. In the first of the two charts, three acquisitions come out of the targeting process, with the stages of each deal running in sequence. Preliminary diligence on Acquisition #1 is followed directly by preliminary diligence on Acquisition #2, and so on. Preliminary diligence leads right into full diligence, which overlaps integration planning. Together, they end in the closing and integration process. As you review the first chart, notice how the projects run serially, one after the other. Minimal overlap occurs in each of the M&A process stages.

In the second chart, there is much more overlap. These are near-simultaneous deals in which some of the efforts from full diligence on one acquisition somewhat overlap the full diligence for the next project. For near-simultaneous deals, there has to be some commonality between them. For example, they need the same core due diligence checklist and are essentially the same company type. Your team will look at the same information across multiple target companies to have that overlap.

Being successful in timing sequential acquisitions requires several things to be true. First, you must know what it will take to get through the process regarding time, resources, and costs. Second, you need to understand the integration plan, approximately how long it will take, and who is involved. Third, you need to understand financial and operational impacts and uplifts.

Figure 3 – Model Acquisitions Timelines



Remember that you should buy companies that are additive to the top and bottom lines. Each acquisition facilitates the next. But understand precisely how much and be sure not to overextend. You may only be able to do this after you have completed at least one and probably two deals. Don't rush into direct sequential deals like this until your process, tools, and documents are buttoned up. But once you do have that, this is the kind of process you need to run for maximum results.

One last thing to remember for running and timing sequential deals is to be prepared to pause or slow a deal down. You might draw out a deal that is otherwise ready to close because your team or company still needs time to absorb it. This can be accomplished by getting an extension of time from the seller to complete the process.

Be upfront with the seller. If they are working with you already, they will want to stick with you even if it takes a little longer than expected. If they go to another buyer, they start the clock again and have to repeat many of the same meetings and disclosure processes with the new buyer that they have already completed with you. If you get their buy-in on slowing things down a bit ("We're not canceling the deal; we just need a little more time before we close"), then you can keep the deal going, stretch out the timeline, avoid overburdening your team or finances, and still keep the overall timeline and goal on track.

Knowing When to Hold and When to Fold

Following the chorus of the old Kenny Rogers song, when growing by acquisition, you do need to know when to hold (pause) and when to fold (stop).

If you're getting financially overextended or need to wait until you have reaccumulated resources before moving on to the next deal, then hold. If your team is getting exhausted, hold. Hold if key team members are unavailable to handle the M&A process. Note that external teams can often be doubled up by hiring more than one deal attorney or CPA, but if a couple of key members on your internal team have vacation or some other form of leave planned, or some significant event or a hectic part of the year is coming up, then wait for them to get back and get caught up before you move on. If you have completed a deal and are having integration issues and something is taking longer than expected, you may need to hold as well. Confer with your team and ensure you make smart decisions, as discussed above.

While you're holding, don't just take a nap. Use the pause to nail down integration efforts. Get things completely dialed in. Catch up on other tasks that may have been delayed or pushed aside for acquisitions. Continue targeting.

Re-evaluate and refine your acquisitions strategy and vision: Does what you started to do still make sense, or do you need or want to make changes? Have you accomplished what you wanted in one area and need to shift gears to move to another part of the plan? Can you move forward with the other deal type while still holding the one you've paused?

Evaluate what you've already accomplished: How close to your goal are you? How much more to go? What from your pipeline makes the most sense to go after next? What's working and what's not? Think about how to fix or change what's not.

Reorganize your company. Some of this may have been accomplished as part of integrations, but now that you've added a few new businesses and they are integrated, does everything still work the way it should, or can you accomplish other improvements while you wait to reengage in acquisitions? Do you have people that could be in more appropriate seats on the bus? Do you have systems now choking on the strain of multiple companies that need to be changed or upgraded? Work on those efforts. All these things help keep your growth going even in between deals.

Shift some focus to alternate growth strategies. Is now the time to revamp the product line? What about markets and marketing: are the right messages getting out, or is there an opportunity to boost revenue with a new campaign? Have other areas of your business kept pace with the growth? Are there opportunities to add new products, services, or partners that can help you gain additional reach now that you have more resources and capabilities?

You also need to know and remember when you have enough. When have you achieved the goals that you set in your strategic plan? How big is big enough to attract the attention or gain the valuation you were shooting for? By this point, you have likely performed valuations on multiple other companies. Do a valuation on your own company. Have you achieved your goal?

There may also be some practical limitations on growth. Have you grown to the point where you can no longer gain additional revenue? Do you need to return to Chapter 1 and work on reinforcing prerequisites again? And do you know what you should do, or have things gotten big enough that you have plateaued along with the company? That may be a sign you've taken it as far as possible.

What does your team think? Are internal team members saying they've had enough? Are they itching to switch to other growth opportunities your acquisitions have made possible? Do you agree? When holding on a deal, you may also need to assess whether you need to upgrade your team. It's possible that the companies you acquired were the same size or smaller than your company. But your company may now exceed the experience or talent of your existing management team, and you need new executives experienced in managing and growing a larger company than you started with.

If you think it's time for team upgrades, that does not mean you eliminate your current team members. Get the upgraded talent in place and then have them do the same kind of evaluation and reorganizing that you have been doing with every acquisition you've completed.

Many companies keep acquiring and integrating until there's nothing left to eat. There are also practical limitations to how big a company can get and still be effective and profitable. If you're unsure you're done, get a second opinion from an outside resource. An assessment by a consultant can help you know whether you are big enough, need to make some adjustments, or can keep rolling forward.

The goal of this chapter has been to help you see when to hold, fold, assess, and adjust. It's been about smartly leveraging early successes into accelerating progress that leads you to your exit goal.

But before we get to the exit, let's briefly discuss other growth strategies businesses often consider. The next chapter will weigh these against our acquisition-focused approach. It will also discuss the crucial process of divesting non-performers to ensure your company continually grows toward your goal.

CHAPTER 10 – SPECIAL SITUATIONS: Other Opportunities, Disaster Avoidance, and Business Divorce

Imagine you're a captain navigating treacherous waters, seeking the fastest route to treasure. Along the way, you encounter other ships offering to join forces. It's tempting to form alliances, but remember, every additional ship means more coordination, compromise, and, ultimately, a slower journey.

In the high-stakes world of growing and preparing your business for sale, joint ventures and partnerships can be those distracting ships—appealing but often slowing you down. This chapter explains why acquisitions should be your primary focus. It also covers handling situations where something or someone you acquire isn't working out. We'll talk about cutting them loose quickly and effectively.

Should You Consider Joint Ventures?

Webster defines a joint venture (JV) as "a cooperative business agreement or partnership between two or more parties that is usually limited to a single enterprise and that involves the sharing of resources, control, profits, and losses."[5] What does that mean? It means two or more businesses getting together to accomplish a specific objective. Take notice also of the part that describes the "sharing of resources, control, profits, and losses." This is where JVs tend to be burdensome, especially when you are an owner acquiring to exit strongly.

In layperson's terms, that definition sounds fine. "My company and yours will pool our resources, make this cool widget, and make a fortune." Except nothing is that easy.

Creating a joint venture is generally done in one of two ways. The first method is forming a whole new company that the joint venturers own. To accomplish this, the parties must do everything an entrepreneur must to form a new company. That is more than just forming the entity and getting a business license. Also, because in most cases two or more companies are participating, it involves deciding how much each party will invest, whether that investment is cash, intellectual property, or some other tangible asset or work contribution. It involves deciding who controls or manages the new company and defining its specific purpose. It involves determining profit shares, assuming that everything goes according to plan.

JVs involve contributing more than just capital. They can include contributing labor or raw materials or using machinery, facilities, people, and systems. They may require the creation of new marketing and brands and conducting sales campaigns to get customers. One of the venturers has to provide management of the joint venture,

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[5] Merriam-Webster. (n.d.). Joint venture. In Merriam-Webster.com legal dictionary. Retrieved January 8, 2024, from https://www.merriam-webster.com/legal/joint%20venture.

or the venturers must contribute enough capital to hire executives to run the new venture. If the venture should run its course or fail, the new entity agreement also needs to cover how the company gets split up and who is responsible for the costs and management of the dissolution.

Another way to create a JV is with an agreement. Except that's a deceptive oversimplification. The truth is that whether you form a new company or write a contract, many of the same decisions need to be made. Those myriad decisions are about the same effort required to start a new company, except that a JV is formed for a limited purpose, so it's not the same. From that standpoint, it's handicapped. You do all that work, and you may or may not be able to pivot when you determine that something isn't working as planned. Most JVs at the SMB level are poorly thought out, poorly documented, poorly executed, and lead to damaged relationships or litigation.

Especially if you are working toward an exit, avoid them. JVs may produce growth but in a different manner from acquisitions. Their requirements will distract you and your team from completing the next acquisition. JVs may also not build your company as fast as an acquisition would. The benefits of a joint venture often won't count on a dollar-for-dollar basis on exit, either. Acquirers will see them as a sticky wicket and, unless it is already materially profitable, may want to pull out of the venture rather than have to share profits with another company or deal with maintaining the relationship long-term. Because that withdrawal costs time and money, that expense likely gets subtracted from the purchase price.

What About Partnerships?

If a joint venture is handicapped because of a single purpose, a partnership is handicapped for its versatility. Many different definitions for a "partnership" exist other than the official entity definition because people use the term so loosely. If someone approaches you or suggests forming a partnership rather than buying their company, make sure you understand what the person proposing the "partnership" actually means/intends. To the extent that the "partnership" is a JV, see above. If it is more of a merger, determine whether it makes sense and could lead to a grand exit for you and the other company. If it does, then proceed accordingly. Remember that a merger functions similarly to an acquisition, except with a different set of documentation and a different result.

Not including mergers, partnerships are generally more time-consuming and distracting than they are worth, just like JVs. If you are trying to build your company up to an exit, stay focused on your business and what you want to acquire to grow it. Focus on buying and integrating. Let others get entangled in partnerships.

What to do About "Bad Marriages"?

Have you ever seen a zombie movie where someone gets bitten on the arm, and before the virus can spread throughout the bitten person's body, they hack off the arm? This is kind of like that.

If you bought a company and it has become clear that you goofed, clean up what you can. Try to put it in a somewhat better position than when you bought it. Do this with little extra effort or investment, UNLESS you are confident you will be able to recover that investment when you resell the company. You should also be careful that fixing it will not take too much of your team's time. Do NOT integrate a lousy buy with the rest of your company. Put it back on the market and dump it.

What if you had already started integrating, and that's when you realized you had bought a stinker? In this case, first work to prevent damage to your core company. Separate the company or its saleable assets back out, including separating books, systems, etc. You may return them to what they had before you bought them, or you may need to keep some of the new systems you use for the rest of your company but work to put them into a separate system, bank accounts, order entry systems, etc. Make them severable and quickly.

If you haven't integrated them at all – don't. But don't just let them rot, either. Treat it like a used car you bought that looked awful because the previous owner never bothered to take it to a good detailer. Clean it up, make it shiny, and sell it to someone who will give it the love you won't.

And if you can't sell the company once you've detangled it from your own? Then, sell the assets and get as much as possible for them. Keep whatever is worth keeping. Don't get discouraged, and don't look back. Focus on the next acquisition and keep going.

Smart Divesting – When to Sell a Piece but Not the Whole

Fragments of an acquisition that are valuable but don't fit should also be sold off, if possible. Don't keep a costly distraction if it is not helping you grow the top and bottom lines, causing distractions that prevent you from working on the rest of the business or making the subsequent acquisition in your plan.

If an entire department, division, or function can't be sold as a unit, reshuffle and shut down the assets and people involved. Save good people and valuable things or locations, and eliminate distractions. If you need to write some parts of your acquisition off, work with your tax advisor to determine the best way to do that and get it done.

Don't delay, but get everyone's input before you make the decision. Involve key people to help with reshuffling, sales, or disposal of assets or layoffs of people.

On people – remember that good people are hard to find, and finding a place for people to work within your larger organization is positive in many ways. But if someone is not working out, don't hesitate to eliminate them. Don't try to salvage everything or expend valuable resources trying to save something that shouldn't be saved.

You've successfully built your business into a formidable empire as you've navigated the complex waters of acquisitions, cutting loose any dead weight and staying the course. But reaching your destination isn't the end of the journey; it's the beginning of a new chapter.

Now that you've grown your company to your target size through intelligent acquisitions, what's the next step? How do you prepare this expanded empire for a profitable and smooth sale? The next chapter will guide you through this crucial phase, ensuring that the empire you've built doesn't just impress but commands the highest possible price on the market. So, let's set sail one more time, this time with the treasure chest in sight.

CHAPTER 11 – FINISHING STRONG: Preparing Your Expanded Empire for Sale

Sitting in a hotel meeting room at an investors' group conference, the leader had just spent the last day and a half reminding everyone why they should avoid brokers when finding companies to buy. Introducing the CEO of a company he was invested in that provided business broker services, his tune seemed to change, and it didn't escape the attention of the investor group.

"But I thought you said we should <u>avoid</u> business brokers?" One of the audience members pointedly asked.

"Absolutely," the speaker smiled, "*except* for selling YOUR business. Once you're ready to sell, you want the services, processes, access, and protection you get from having a professional represent you."

It truly is a dog-eat-dog world out there. And that speaker is 100% correct.

Properly Marketing Your Expanded Enterprise

Buyers will come to you if your company has been growing and is profitable. Even if one of those offers is exceptionally tempting, do NOT try to sell your company without professional assistance. Although by this point you have been through the process of buying companies multiple times and know more than most, selling your company is not the same thing. You are better prepared but not fully prepared. The adage, "An attorney who represents himself has a fool for a client," does not just apply to attorneys.

No shortage of business brokers, M&A advisors, or investment banks exists. They are plentiful. But like anything plentiful, it also means that the quality varies greatly. Like potential buyers looking for companies to acquire, brokers will also be banging on your door now. Start taking those calls if you have achieved your goal and are ready to exit.

Because broker quality varies considerably, you must be as diligent about choosing a broker or advisor as you were for buying companies. Do NOT just sign up with the first broker or advisor who contacts or is referred to you. This is one of the most important decisions you will make. (NOTE that back in Chapter 4, if you decided to hire a buyer's broker to assist with acquisitions, this is the same kind of review you need to make in selecting that person, agency, or company.)

Here is what you need to find out about a prospective broker, advisor, or banker (for simplicity, we'll refer to them collectively as "advisors") before hiring them to help you sell your company:

Deal Size Experience / History – I will start with this aspect first because one of the reasons your buyer's broker may not be the right person to be your seller's advisor is that larger deals are more complex. The big-money buyers you should now attract are more sophisticated and require different negotiation techniques and expertise. Ensure your advisor knows how to value your business correctly and attracts the attention of the right buyers. Find out how many deals they (and their company) have been part of at this level and get some information about their involvement. Invite some of your external team members (attorney, CPA, tax advisor) to speak with them. Get their feedback on an advisor's level of experience or expertise as well.

Industry Expertise – This aspect is more critical than many advisors might care to admit. If an advisor does not understand your industry, they will not be successful in representing your company to potential buyers. Don't take their word for it or trust that their deal closings in your industry mean they actually "get it." Invite them for a tour of your place. Get on a Zoom call. Ask them questions; see what questions they ask you. You know your industry; make sure they do as well, or that lack of expertise will handicap your company's sales process.

Resources / Team / Network – Find out what else they bring to the table besides themselves. Are they part of or do they have a team they work with on deals? Can they access systems to help with valuation, due diligence, and closing? What about their network of contacts? Will it help find buyers and arrange other services needed to close the deal? The right advisor will bring the tools you now know you'll need.

Process – Have them walk you through their process. You will notice that their sales process may be a bit more sophisticated than the process you've followed to buy other SMBs. Make sure you understand the process and know what to expect. Ensure you understand how they will communicate and interact with you and when you will be actively involved versus when they will be operating autonomously on your behalf.

Related Services – Many advisors also provide other services. Valuation services. Escrow or closing services. Transition services. Tax advice. And others. Have them (as part of the process review) talk you through what other services they or a partner can provide so you don't have to shop for them. Remember, just like the buyer's broker may not be the best exit advisor, the external resources you used for the smaller deals you completed may not be the right resources to sell your now substantially larger company. As discussed above, the right advisor should be able to help make those connections.

"Fit" – Just like this was a factor for evaluating the companies you sought to acquire, ensuring that this advisor is a good fit for you and your company is equally important. Do they share the same values as you and your company? Do they want a sale no matter what, or do they want to get the **<u>right</u>** buyer for you and preserve the legacy you have so carefully fostered over the years and have been cultivating in your business even as you grew it? Remember the broker horror story I shared in Chapter 4. You don't want to be that owner working with that broker.

Cost – Get multiple quotes. Get a range of what their assistance will cost you. Then, pick the advisor you feel most comfortable with and, if their cost is out of the range you've received from others, negotiate the rates with them. And if they don't negotiate their rates, you have to decide whether you are okay paying more for the advisor you want or whether another cheaper advisor is acceptable. Remember, you will only be selling this company once. Your choice will have a significant impact on its success.

Engagement Agreement – Naturally, you will want to get their engagement agreement reviewed by your attorney. But before you do that, have THEM walk you through the engagement agreement and tell you what's in it and what they believe it says. This tests for two things: (1) Do they truly know what they are promising to do and not do, and what you are being asked to do and not do? (2) Do their explanations make sense to you? This tells you how helpful they will be when they receive complex documents from potential buyers and need to explain those to you. Are they contract savvy, or are they just salespeople? Contract savvy is required for your company's size during this process stage.

Licenses – Ask the advisor whether they need a license to perform their services. In many states, for example, a business broker has to have a license from the state to act as an intermediary for selling a business. Ensure the person or firm you will work with is properly licensed. Your deal attorney may also help ensure you get the correct information in response to this question.

Certifications and Related Experience – In the military, we used to call them "scare badges." Those were the certifications where you qualified as an "expert" with a rifle or with grenades or where you qualified to parachute out of airplanes or zip down a rope out of helicopters. The advisor realm is no different. If they have a series of cool acronyms after their name on their business card or their LinkedIn profile, have them tell you what each one is for and what they had to do to earn it. Then ask yourself, “Am I impressed?” Seriously.

Professional Organizations – While many professional organizations exist for brokers, advisors, and bankers, remember that membership in one of these organizations is a good indicator of someone’s dedication to their craft. It is NOT an automatic indicator of quality or professionalism. Like the certifications above (many of which are offered by these organizations), professional organization membership is just one indicator you should consider when choosing an advisor.

Leveraging Your Past M&A Efforts to Streamline Your M&A Exit

Most business owners have never done an acquisition. However, if you have been building your business through acquisition using the process in this book, you are ahead of most SMB business owners. Let’s count the ways:

- **Knowledge of Process** – you have been through the process and know what it takes to buy and integrate a company into your own. This same knowledge will help you prepare your company for sale and understand what a potential buyer will need to know about your company for their integration process.
- **Use of Advisors** – you understand that the process requires the assistance of specialized advisors such as attorneys, accountants, and tax advisors, not to mention the

knowledgeable participation of key people within your company. For the sale of your company, you now know what to expect from those advisors when you are the seller.

- **Handling Due Diligence** – you know how due diligence works, having done it at least a few times for deals of your own. You know what kinds of information to prepare, and your team knows how to present it to a buyer's diligence team.
- **Preparation of Materials** – you know what information needs to be examined and the best or most efficient way to prepare or present those materials to the buyer. You will have these ready to go for the sale of your company and be able to accelerate the process.
- **Understanding Deal Structure** – you've structured several deals of your own, learned how deal structuring works, and know what you are willing to accept and why.
- **Understanding Deal Structure Tax Implications** – you've also worked with sellers and their tax advisors through objections to deal structures for tax reasons. You now know how to consult your tax advisors to ensure that your taxes on sale are minimized as well. Your advisor should be focused on post-tax sale proceeds, not just the total price.
- **Handling Objections** – you've heard many objections and made quite a few of them yourself. You are so well informed about how deals work that now you know how

to work through objections to develop win-win solutions to keep a deal on track.

With all of these hard-earned skills and experience, you should be able to nail the sale of your business. Depending on the potential buyer being an appropriately sophisticated buyer (which you *will* have if you now have EBITDA over $2M/year), it should be faster and more efficient than anything else you have done and even more satisfying than anything else you have done to this point.

Handling the Sale

The first step in handling the sale process, like when you were the buyer, is solidly valuing your company. By now (following the discussion in Chapter 2), you have also consulted with a wealth advisor and a tax advisor, so you know how you want the deal structured to minimize your taxes and maximize your payout. This includes what you will or will not accept from a price and terms perspective. Recall the adage about price and terms from Chapter 6 and realize you are now on the other side of that expression. Consider how each potential buyer might want to structure a deal, and you will be well-prepared for negotiations.

Be proactive. Don't wait for anyone to get the ball moving. You know what must be done and what the buyer wants to see. Get it staged before they even ask for it. This accomplishes two strategic objectives:

- It tells the buyer you are a sophisticated seller and well-organized. You are not to be trifled with.

- It shortens the process and makes everything faster. Once a buyer is on the hook, you want them to go through due diligence expeditiously and get straight to the closing table with their checkbook. They might ask you for something that you haven't prepared before, but you will have your advisor and your experience to help you get the proper response assembled faster and more accurately than an inexperienced seller.

Make sure your team is prepared. They should already know what has been prepared and staged, and they should already know what questions are likely to be asked. If you are one or two steps ahead of the buyer every step of the way, that buyer will be much more confident about the business they are buying. Most sellers don't properly prepare and stumble through the process. This is a yellow flag, especially for a sophisticated buyer. The folks who write big checks, the ones you've embarked on this journey to attract, are primarily interested in strong, well-organized sellers. Your sales process will be fast and efficient if you are that seller.

You have been through multiple sales transactions and seen various sales documentation. You will better understand the documents you'll likely see in this sales process. Even documents you may not have seen before will be clearer because you know the process front to back. Even though the document preparation is on the other side of the table from you, you'll grasp and appreciate the concepts presented in the deal documents faster than before you started on your acquisition spree.

Employment or Consulting Services Agreements

If it wasn't before, by this point, your company is an EBITDA company, and you are an EBITDA owner. You will likely be paid at closing and walk out with a check, a smile, and no further obligation to your business. But be prepared to stick around briefly to assist with any transition. If your transition time is ninety days or less, be ready to do that time for free. Alternatively, you may receive the same kind of longer-term employment or consulting agreement that you offered to one or more of the owners whose companies you acquired.

If the offered price for your company from the right kind of buyer is somewhat less than you wanted, or especially if the buyer wants an earnout provision, propose that you stick around for some time under an employment or consulting services agreement. You can remain in place or be "on-call" to assist and have a portion of the purchase price paid to you as employment or contractor compensation. This might also help you ensure the company continues to perform at high levels and that the integration of your company is handled correctly.

For an earnout, which we discussed in more detail in Chapter 6, this helps you attain the performance goals that will earn you the maximum amount of that earnout. Suppose you stay on as an executive or consultant for some time and can push your company toward goals that justify more significant compensation. In that case, you can also work in extra incentive pay or performance bonuses to help push the overall purchase price even higher. Ensure that any earnout or bonus provision includes clear, attainable criteria you are confident will be achieved.

For these agreements, ensure the terms are clear and provide you with appropriate compensation levels. The terms should include duration, compensation, time requirements, duties and responsibilities, expected outcomes, termination provisions, buyout provisions, and anything else your attorney or financial advisors recommend.

Be sure to cover these agreements with your tax advisor to understand the impact of that agreement on your taxes. Remember that, in many cases, a consulting or service agreement executed as part of a sale of a company can be counted as part of the compensation paid for the business. That means they may be subject only to capital gains, not regular income tax.

Be sure that any employment or services agreement has an explicit buy-out provision. Think of it like you're an NFL coach or a public company CEO with a pre-negotiated severance agreement. If they send you packing prematurely, they must pay you to leave. Be sure it covers the entire base pay or compensation in the contract plus all or at least a reasonable or carefully calculated portion of the incentive compensation. Make sure that terminating your contract early does not produce an unearned windfall for the buyer. They need to be held to the total contract price they would have paid if they'd kept you on for the entire term. This must be the case regardless of whether you are an employee or a contractor.

Moving On

Once the deal is closed, you should keep the following items in mind.

Follow-Up After the Close – Remember all those adjustments and follow-up payments or holdback payouts you dealt with when you were the buyer and had sellers pressing to ensure you processed them correctly? Now it's your turn. Ensure you know precisely when and how much your payouts are. Have your advisor assemble a schedule for you and get your assistant to put it on your calendar. Get every adjustment and payout you are entitled to, and watch that nothing falls through the cracks.

Avoid the Urge to Look Back – The first time I turned a family home into a rental unit, I had a tough time watching as the tenants took care of the house, but not nearly like my family and I had before renting it. I soon learned it was no longer *mine* like it had been. I had to let go and trust my property manager to ensure that the value of my asset (not my home) was maintained correctly. When you sell your company, you need to do the same thing. Don't look back once the company is sold and you are out of the business. You have been fully paid for it and no longer have any control over it. You have to let it go.

Focus on the Future – Before starting the sales process, envision what's next for you. If you don't, don't start selling until you do. You need a next step, or either the urge to look back will be unbearable, or you will feel lost and risk depression. Sit down with people close to you, reflect, think about what you want to do next, and focus on that. If you have a "life after my company" plan, then you can focus on that instead of constantly looking over your shoulder and wincing when they're not doing things the way you would.

And if you do come back to the business world, re-read this book and do it all again.

CONCLUSION

Chances are you picked up this book because it might be time (or almost time) to sell your company. Maybe you've been building your company for years and felt it was time to do something else. Perhaps you had a change in your life and knew it was time to get out. Maybe you saw something new and exciting and wanted to do that.

Then you went to see how much your company would be worth if you sold it and were disappointed. Maybe you even put it on the market and couldn't find a suitable buyer or the offers were much lower than expected. Rather than just accepting that fate, you started looking around. That's when you found and are now finishing reading *Acquire Before You Exit*.

What's next? Follow the steps.

1. **Assess your company and get it ready**. What do you need to do to be prepared to do some acquisitions? Are there any changes to your organization that you should make before you get started? Do you need to update your organizational documents? Get your house in order before you start.

2. **Develop your acquisition strategy**. Figure out what you want to buy and why. Look for ways to be creative. Come up with a comprehensive acquisition strategy to help you build your company so it is irresistible to buyers.
3. **Find your targets**. Do some research. Find companies that fit your acquisition strategy and learn more about them. Prepare and prioritize a list.
4. **Assemble your team and prepare plans and documents**. Based on your strategy and planned targets, who do you need on the team from your current staff? What external resources do you need? Review the tools in this book and make them fit your industry, strategic plan, and targets.
5. **Start making calls and having conversations**. Contact the owners of your targets and start a conversation. When they're comfortable, find out more about their business. Get the information you need to decide whether to make an offer and how to structure it. Execute an NDA if you need to. Then, craft an LOI with the most appropriate deal financing structure possible.
6. **Work the deal**. Once you have that LOI in place, conduct due diligence that confirms the deal and its terms and pre-wires everything for integration into your company.
7. **Integrate your purchase**. Lead your team to assemble it all using the information you learned during due diligence. While doing this, you should immediately move on to your next purchase. Keep the momentum going with

sequential and simultaneous deals smartly aligned with your team's available capacity.

8. **Rinse and repeat**. Keep going until you've built your company up through acquisition to the point where you will have people coming to you with offers you never thought you'd see.

This book provides you with all the detailed instructions, creative solutions, tools, and templates you need to succeed in this quest. Once you've built your company, it also provides a guide for selling it for a premium, using professional advisors and the knowledge you gained from making your acquisitions.

You may need additional assistance besides the lessons and resources in this book. But rest assured, those professionals are out there and ready to help you be successful. Getting their aid is only a phone call or email away.

So, good luck with your quest. Leave a review for this book if you liked it and found it helpful. Feel free to contact me directly with additional questions or feedback or to get assistance through the site where you acquired it or on my company website at https://navvee.com. If you are looking for direct advisory assistance with your exit, or you want help with buy-side advisor services you can also find me at https://tnma.com.

Happy acquisitions!

Title: Keeping the Game Alive

Congratulations! You're now equipped with the knowledge to hit your target exit valuation. It's time to share this wealth of information with others.

By leaving your honest review of this book on Amazon, you're not just sharing your thoughts; you're guiding other SMB owners to a resource that could transform their business journey.

Your review is more than just words; it's a beacon for growth and success in the SMB community. You're helping to keep the spirit of knowledge-sharing alive, and for that, I'm incredibly grateful.

Thank you for being a part of this mission. Together, we're making a difference in the world of business acquisitions.

Scan the QR code below to leave a review:

RESOURCES

Company Types and Organizational Documents

Entity Type	Document Type	Description
Corporation	Articles of Incorporation	A document that establishes the existence of a corporation in the state and includes basic information such as the corporation's name, purpose, and structure.
Corporation	Bylaws	Internal rules governing the management and regulatory procedures of a corporation.
Corporation	Shareholders' Agreement	A contract among the shareholders of a corporation outlining the rights and obligations of the shareholders.
LLC	Articles of Organization	A legal document filed with the state that formalizes the creation of a limited liability company (LLC) and includes details like the business name and the names of its members.
LLC	Operating Agreement	An agreement among LLC members governing the LLC's business, and members' financial and managerial rights and duties.
Partnership	Partnership Agreement	A contract between partners that outlines the terms of the business relationship, including contributions, profit sharing, and management duties.

Entity Type	Document Type	Description
Sole Proprietorship	Business License	A permit issued by the government allowing individuals to operate a business under their own name or a trade name.
S Corporation	Articles of Incorporation	A document that establishes the existence of a corporation in the state and includes basic information such as the corporation's name, purpose, and structure.
S Corporation	IRS Form 2553	A tax form filed with the IRS to elect S corporation status, which allows corporations to pass corporate income, losses, deductions, and credits to their shareholders.
S Corporation	Bylaws	Internal rules governing the management and regulatory procedures of a corporation.
S Corporation	Shareholders' Agreement	A contract among the shareholders of a corporation outlining the rights and obligations of the shareholders.
Nonprofit	Articles of Incorporation	A document that establishes the existence of a nonprofit organization and includes information such as the organization's name, purpose, and structure.

Entity Type	Document Type	Description
Nonprofit	Bylaws	A set of rules adopted by a nonprofit organization to control the actions of its members and the management of the entity.

Target (Lead) Research Systems and Services

Note that this is only a short list of some of the systems and service providers available and that listing them here is not an endorsement of any of them. Everyone processes data a little bit differently and has their own preferences, so having plenty of options is important. Take a look at several of these (and maybe others as well) before you decide on one to use. Remember, if you are using a broker to help with acquisitions, find out what they have access to before you buy or subscribe to any of these.

1. **PitchBook** - (https://pitchbook.com/)- Provides comprehensive data on the private and public markets to help professionals discover and execute opportunities with detailed information on companies, including their financials, valuations, and more. Expensive and caters more to larger companies.
2. **Crunchbase Pro** - (https://www.crunchbase.com/products/crunchbase-pro) - Offers detailed information on companies, including investment and funding data, founding members, and news about startups, as well as tools for market analysis. Inexpensive for single user licenses and has good information, but limited on the number of records you can download in a month.
3. **Mergermarket** - (https://www.mergermarket.com/) - A global provider of M&A data and insights, which specializes in providing forward-looking intelligence and deal flow opportunities.

4. **CB Insights** - (https://www.cbinsights.com/) - A tech market intelligence platform that analyzes millions of data points on venture capital, startups, patents, partnerships, and news mentions to help predict technology trends.
5. **Bureau van Dijk - A Moody's Analytics Company** - (https://www.bvdinfo.com/) - Offers detailed company information and business intelligence with a comprehensive database for private company data and M&A deals.
6. **D&B Hoovers** - (https://www.dnb.com/products/marketing-sales/dnb-hoovers.html) - Provides sales leads and sales intelligence data on over 120 million companies like prospects, competitive analysis, and analytics.
7. **Statista** – (https://www.statista.com/) - Provides statistics and studies from more than 22,500 sources, which can be used to gather market and industry data for potential acquisition analysis.
8. **Factiva** – (https://professional.dowjones.com/factiva/) - Offers global news and data on industries, companies, and business leaders, which can be leveraged to conduct research on potential acquisition targets.
9. **S&P Global Market Intelligence** – (https://www.spglobal.com/marketintelligence) - Offers financial news, data, and analytics, which can be used to research and identify potential acquisition targets across various industries.
10. **IBISWorld** – (https://www.ibisworld.com/) - Offers a vast collection of industry reports and market research, which can be

instrumental in identifying potential acquisition targets within specific sectors.

11. **Frost & Sullivan** – (https://www.frost.com/) - Provides market research and analysis, growth strategy consulting, and corporate training, which includes identifying and researching companies and industries.
12. **The Economist Intelligence Unit (EIU)** – (https://www.eiu.com/) - Offers forecasting and advisory services to provide insights and analysis on industries, companies, and countries, which can aid in identifying acquisition opportunities.

Model Due Diligence Checklist

Introduction

Search the internet for due diligence checklists related to mergers and acquisitions (M&A), and you will find at least a dozen to choose from. They're published by lawyers, accountants, business brokers, investment bankers, M&A software companies, business consultants, and exit advisors. Most of the information that is being reviewed is the same across the majority of the checklists. Only those checklists that are specific to a particular industry (i.e., aviation, software development, cannabis, etc.) have special items that no general checklist has. **You SHOULD seek out supplemental checklists made for your industry, especially if you are in a specialized industry**. Use those specialized checklists in addition to this more general checklist.

Intended as a general checklist that works across multiple industries, the following list is an amalgamation of eight different checklists (citations to the source lists are contained at the end of the checklist) that have been sorted, deduplicated, and simplified as much as possible for this book. Even so, there are still several areas on this checklist that are repetitive of other portions of the list. That is purposeful. Some items that you (or your team) will examine affect the picture or story of the company you are looking into acquiring in several different ways. Having those same materials appear in different parts of the list helps emphasize their importance to the overall review process.

As you are preparing for your acquisition process, you and your team should review this checklist, supplement it with additional information that comes from a checklist that is specific to your industry, add other areas of examination requested by either your internal or external team, and carve out or eliminate areas that may not be as important or even necessary to the types of companies you are looking to acquire. Remember that every purchase is unique and may require reviewing your custom version of this checklist each time you start a due diligence process. A strong foundational list will make that part of the process much less time-consuming.

Corporate Organization & Ownership

This part of the due diligence list encapsulates a thorough investigation into a company's corporate organization and ownership, detailing the composition of its leadership, structural intricacies, and historical evolution. It includes a deep dive into the records of stock and shareholder specifics, legal and strategic documents outlining the company's core competencies, and any potential for growth through acquisitions. This list also scrutinizes legal compliance through organizational documents and minute books, while considering additional factors such as partnerships and asset distribution.

Corporate Information

1. List of current officers and directors, including the history of the management team.
2. Comprehensive organization chart detailing the structure of the company and its subsidiaries.

3. Corporate history, including founding details, evolution of service offerings, location changes, ownership changes, acquisitions, divestitures, and financial history.
4. List of all subsidiaries and significant non-subsidiary investments, including details on shares, interests, and voting rights.
5. Description of transactions with insiders such as stockholders, directors, officers, employees, or affiliates.

Ownership Details

1. Detailed records of stock, options, and warrants issuances or grants.
2. Complete list of shareholders with share counts, issuance dates, and consideration received.
3. Documentation of all shareholder agreements, voting agreements, trusts, proxies, rights, and ownership-related matters.
4. Copies of agreements related to stock transfer restrictions, registration, repurchases, redemptions, exchanges, conversions, and preemptive rights.
5. Stock books and recent communications to shareholders, including quarterly and annual reports within the past five years.

Corporate Strategy

1. Outline of the company's core competencies and strategic alliances.

2. Detailed synergies expected from acquisitions, categorized by cost reductions and potential revenue increases.

3. Analysis of how the company's products, personnel, and geographic coverage align with potential acquisitions.

Legal and Corporate Documents

1. Organizational documents for the company and each subsidiary, including certificates of incorporation, by-laws, partnership agreements, and LLC agreements.

2. Review of minute books, including board and shareholder meeting minutes and written consents.

3. Analysis of all acquisition agreements and related government filings.

4. Examination of all publicly filed documents and press releases issued by the company.

5. Internet searches and media article reviews concerning the company and industry.

6. Summaries of corporate history, including mergers, acquisitions, and divestitures.

7. Obtain and review certificates of status/good standing for the company.

8. Conduct a corporate review of the minute books focusing on the validity of major corporate actions.

9. Obtain a list of jurisdictions where the company is or should be qualified to do business and conducts operations, including employee and property details.

Additional Considerations

1. Review partnership or joint venture agreements, if any.
2. Perform asset searches in jurisdictions where principal assets are located.
3. Analysis of the number of shares outstanding and documentation of private equity issuances.
4. Summary of warrants, convertible notes, and any rights entitling the holder to obtain equity.

Environmental

The environmental due diligence list is a thorough investigation into a company's environmental compliance, encompassing interviews with stakeholders, examination of violations and permits, assessment of hazardous substances management, and review of safety programs. It aims to identify environmental liabilities, verify adherence to regulations, and evaluate the impact of the company's operations on the environment, which is essential for risk management and sustainable practices.

1. Interviews with past and present owners, operators and occupants
2. Copies of any violations, complaints or requests for information regarding environmental, workplace safety and health (from private parties or governmental authorities)
3. Historical sources of information (i.e. aerial photographs, fire insurance maps, chain of title documents, and land use records)

4. Federal, state, local and tribal government records
5. Records concerning adjoining or neighboring properties
6. Permits and records relating to environmental matters such as underground storage tanks, air quality, water use, solid/liquid wastes and hazardous waste storage or disposal
7. Any records of environmental cleanup liens
8. Listing of hazardous substances (i.e. asbestos, pesticides or petroleum products) and any intentional or accidental spills/releases of the material
9. Details on workplace safety and health programs
10. Description of any toxic chemicals used in production and manner of storage and disposition.
11. Description of any Environmental Protection Act, Toxic Substances Control Act or other investigation or claim.
12. Environmental surveys, site assessments or reports (including copies of any Phase I and Phase II reports) concerning any real property currently or formerly owned or leased by the Company.
13. Environmental, health and safety compliance verification reports (e.g. compliance audits) and quality assurance documents.
14. Copies of any internal reports or memoranda prepared by the Company or third parties relating to hazardous materials, health and safety or other environmental matters.

15. Correspondence, memoranda, notes or notices of violation from foreign, federal, state or local environmental, health and safety authorities.

16. Any "potentially responsible party" letters or other similar notices or requests for information from any governmental or regulatory authority.

17. Identify where finished product, inventory and raw materials are being stored.

18. Identify methods of waste disposal: paperboard waste; hazardous waste; effluents.

19. Determine whether they are any drums or waste buried on project premises.

20. Determine whether any projects are subject to an environmental compliance schedule, consent order or administrative order and whether any project received notice that it is not in compliance with applicable environmental laws.

21. Determine if any projects operate under an air or water pollution permit. Determine if any projects have underground tanks. If so, obtain a description of them including age.

22. Provide general information about the age of the project(s), former operations, prior land use, prior owners to the extent possible. Determine whether any environmental audits or assessments have been done. If so, obtain copies of reports.

23. Describe the status of the environmental clean-up efforts in progress.

24. Determine what steps have been taken to ensure compliance with the Environmental laws.

25. Determine environmental problems, and what the Company plans to spend between (dates) on environmental matters.

26. Schedule of Hazardous Materials stored, manufactured or located at any facility of the Company either now or in the past, or that the Company ships or transports (Hazardous Materials means any substance or any material containing a substance that could be considered toxic or hazardous under Federal or state law, including solvents, petroleum, pesticides, paints, asbestos containing materials, lead based batteries, radioactive materials and PCB containing transformers.)

27. Schedule of chemicals, toxic substances or air contaminants which are regulated by OSHA present in any facility of the Company.

28. Schedule of any incidents involving the release of a potentially hazardous amount of any carcinogen into, or presence of asbestos in, the workplace.

29. Schedule of all instances in the past in which the Company has corrected unsafe working conditions.

30. Schedule of all the facilities of the Company that discharge waste into any body of water, stream or any sanitation systems.

31. Schedule of all permits or approvals obtained from any governmental body responsible for environmental or health regulation.

32. Schedule of all occasions in which a liquid or solid waste material or any fuel or other Hazardous Material was accidentally or intentionally spilled or released.
33. Any notices of violation or requests for information that have been received or threatened at any time for alleged failure of any facility to comply with applicable air pollution laws or with any air quality permit.

Financial

The financial due diligence list is a rigorous assessment of a company's financial health and sustainability, focusing on verifying the accuracy of cash balances, receivables, and inventory valuation. It includes a review of fixed assets, existing liens, and capital expenditure plans, alongside a detailed examination of financial statements, auditor reports, and cash flow forecasts. The list also scrutinizes liabilities, potential losses, and compliance with financial regulations, ensuring a comprehensive understanding of the company's financial operations, obligations, and profitability. This process is vital for evaluating the financial viability and future prospects of a business, forming the backbone of informed investment and management decisions.

Assets

1. Obtain bank statement for the past three years. Verify bank reconciliations for all bank accounts with significant cash balances.

2. Obtain detailed accounts receivable and notes receivable ledgers or records, including aging schedules and information on allowances for doubtful accounts.

3. Determine days of receivables outstanding, valuation methods, and bad debt probability. Ensure you understand how those outstanding accounts will be paid current.

4. Review inventory items, valuation methods, and discuss the obsolescence reserve.

5. Obtain current fixed asset listings, depreciation calculations, and appraise the value of significant fixed assets.

6. Ascertain the existence of any liens against company assets and obtain any maintenance agreements on company equipment.

7. Discuss plans to close, relocate, or expand facilities and the need to replace assets.

8. Itemize all capitalized research and development or software development expenses.

9. Determine the value of any net operating loss carryforward assets.

10. List all owned or leased properties, including details on sales and purchases of major capital equipment in the last three years.

11. Obtain copies of all lease agreements for equipment and real estate, including deeds, appraisals, mortgages, leases, surveys, title policies, use permits, and other relevant documentation.

12. Provide a schedule of owned and leased fixed assets, including description, date acquired, value, and location.
13. Describe practices regarding inventory aging, valuation, obsolescence, and any methodology changes.
14. List any security interests in personal property, including UCC filings.

Audits

1. Arrange a due diligence meeting with the auditors (or at least the CPA that handles the books or taxes for the target company) to review financial statements, forecasts, accounting policies, auditor-management relationships, internal controls, and post-audit results.
2. Discuss the nature and scope of the auditors'/accountants' review of financial statements and forecasts.
3. Review any supplementary financial or management reports or letters to management prepared by the auditors.

Cash Flow

1. Construct a cash flow forecast for the next six months and review the trend line of working capital.
2. Categorize working capital by segment, product line, and customer.
3. Determine historical and projected capital expenditure requirements.

General

1. Confirm seller's financial performance by examining historical and interim financial statements, including significant accounting policies.
2. Review management letters or special reports by auditors and any responses.
3. Provide detailed aging schedules for accounts receivable and payable.
4. Describe critical accounting policies, revenue, and cost recognition methods.
5. List fixed assets and provide a detailed description of any off-balance sheet arrangements.
6. Describe any non-GAAP financial measures and provide reconciliations to GAAP.
7. Obtain all business plans, including summaries of ongoing or proposed capital expenditures.
8. Provide financial statements for the target and branches, including unaudited financial statements for comparison.
9. Summarize any cash management controls, investment policies, and hedging policies.
10. Provide reports reflecting all aged accounts receivable trial balances.
11. List debts, agreements, or arrangements expected to result in a loss to the target.

12. Provide a current listing of standby letters of credit, performance bonds, and guarantees.
13. Investigate any auditor resignations, continual changes in accounting methods, complex business arrangements, and loan covenant targets.
14. Review insider stock sales, internal audit scope restrictions, end-of-month sales patterns, and regulatory warnings.

Instruments

1. Summarize all outstanding debt, derivative instruments, and financing arrangements.
2. Provide copies of all financing agreements, including loan and credit agreements, mortgages, promissory notes, and related correspondence.

Liabilities

1. Review current accounts payable and terms of any lines of credit or other debt agreements.
2. Verify wage and tax remittances and review the sufficiency of accruals.
3. Obtain copies of all unexpired purchasing commitments.
4. Investigate potential warranty, environmental, legal, and regulatory non-compliance issues.

Miscellaneous

1. Provide documentation on restrictions or encumbrances on assets.

2. Summarize the target's compliance program and applicable regulations.

3. List and summarize all pension plans, benefits, compensation policies, and incentive stock option plans.

Profitability

1. Obtain audited financial statements and tax returns for the last three years, and monthly financial statements for the current year.

2. Determine profitability by product, customer, and segment, and review revenues and profits per employee.

3. Analyze direct materials expense as a percentage of revenue and trends in revenues, costs, and profits.

4. Review the company's budget projections and compare past budgets with actual experience.

Property and Real Estate

1. List all business locations, including owned or leased property details.

2. Summarize deeds and provide copies of all related title papers for owned real estate.

3. Provide lease agreements and agreements related to the purchase or sale of real property.

4. List real property owned by the Company, including documents of title and outstanding leases.

Securities Issuances

1. Provide copies of equity and debt financing documents, including stock purchase and convertible debt agreements.
2. Summarize stock option or purchase plans and related agreements.

Supplier and Contractor Relations

1. List the top suppliers for the past three years and provide material contracts.
2. Summarize policies and procedures for evaluating and onboarding new suppliers or contractors.

Tax

1. Analyze tax returns, tax structure, and any audit adjustments proposed by the IRS.
2. Provide documentation around tax liens, settlements, and any tax provision work papers.
3. Evaluate the effect of changes in tax laws on the future operation of the business and assess potential tax liabilities.

Governmental Regulations and Filing

The governmental regulations and filings due diligence list scrutinizes a company's compliance with regulatory requirements, encompassing inquiries, permits, licenses, and contracts with governmental bodies. It reviews the company's historical and current filings, correspondence with regulatory agencies, and any potential antitrust issues. This process ensures the company's operations align with legal standards and anticipates renewal needs for ongoing regulatory adherence, which is crucial for risk management and operational integrity.

1. Summary of material inquiries by any foreign, federal, state or local governmental agency.
2. Copies of all contracts between the Company and any foreign or domestic government (including regulatory bodies and other agencies with governmental authority).
3. Status of foreign and domestic government contracts subject to renegotiation.
4. Material foreign and domestic governmental permits, licenses and certificates which the Company holds and current status.
5. List and description of all permits necessary for the Company to operate its business in the ordinary course.
6. Material filings made and significant correspondence by the Company with any state, federal or foreign governmental or regulatory agencies since the Company's inception.
7. Any franchise filings and all material correspondence relating to the filings.
8. Copy of the company's compliance policy and written standards of conduct
9. Copies of any governmental licenses, permits or consents
10. Any correspondence, citation, notice or documents relating to any proceedings of any regulatory agency
11. Any documents filed with the SEC or any state or foreign securities regulatory agency (if applicable)

12. Any material reports to government entities and agencies (including the EPA and OSHA)

13. Analysis of potential antitrust issues (if applicable)

14. Review the company's correspondence with the Securities and Exchange Commission, any national exchange, or state securities commission, other than routine transmittals, for the past five years. Determine if there are or were any enforcement or disciplinary actions or any ongoing investigations or suggestions of violations by any of these entities.

15. Review any correspondence during the past five years with the Environmental Protection Agency, Federal Trade Commission, Occupational Safety and Health Administration, Equal Employment Opportunity Commission, or Internal Revenue Service. Determine if there are any ongoing investigations or suggestions of violations by any of these agencies.

16. Review any required regulatory compliance and verify that necessary licenses and permits have been maintained, as well as ongoing filings and reports.

17. If there is a General Service Administration schedule, when does it come up for renewal?

18. Obtain copies of the most recently filed EEO-1 and VETS-100 forms. Obtain copies of any affirmative action plans.

19. Obtain copies of any open charges of discrimination, complaints, or related litigation, or any such cases that have been closed within the past five years.

20. Permits for conduct of business, including licenses, franchises, concessions and distributorship agreements.

Human Resources

The human resources due diligence list is designed to audit employee records, compensation structures, legal compliance, organizational policies, and cultural dynamics. It aims to identify potential liabilities, ensure regulatory adherence, and assess the impact of corporate transactions on the workforce. This thorough review is crucial for evaluating the company's human capital risks and aligning personnel strategy with business objectives.

Employee Information and Agreements:

1. Obtain comprehensive lists of all current and inactive employees, detailing compensation, employment history, demographic information, and job titles.
2. Provide professional biographies for key employees, senior management, and board members.
3. Summarize loan amounts and terms to officers, directors, or employees.
4. Detail involuntary terminations within the past year, including reasons and demographic information of those terminated.
5. Obtain all employment, severance, salesperson, director, and consulting agreements.

6. Collect all non-compete, intellectual property, confidentiality, and related agreements, including those for terminated employees.
7. Obtain copies of union labor agreements and details of any labor disputes or union activities.
8. Provide copies of all employee manuals, policies, and handbooks.
9. Summarize current recruitment initiatives and employee relations matters.

Compensation and Benefits:

1. Obtain copies of performance evaluation criteria, bonus plans, and compensation agreements.
2. Summarize all benefits, compensation policies, and details of profit-related schemes.
3. Provide copies of plan documents for all benefit plans, including pension and retirement plans.
4. List and summarize incentive stock option plans and outstanding stock awards.
5. Review accrued 401(k) benefits, pension plan documents, funding status, and fringe benefits.
6. Obtain a list of former employees using COBRA coverage and executive perquisites.

Compliance and Legal Matters:

1. Conduct background investigations on principal employees.

2. Summarize litigation against the company brought by current or former employees.
3. Detail any disciplinary proceedings, grievances, and investigations by authorities relating to employment matters.
4. Obtain copies of all labor or employment contracts and any labor board proceedings or outstanding grievances.
5. Review documents relating to union employees' participation in any multi-employer pension plan.

Organizational Structure and Policies:

1. Obtain a copy of the organization chart and a management organization chart.
2. Determine the number of states to which payroll taxes must be paid.
3. Assess the adequacy of the labor supply for each operating division.
4. Obtain detailed resumes of directors and top management personnel.
5. Review corporate policy and employee manuals covering hiring, employee benefits, regulatory compliance, and internal controls.

Cultural Assessment:

1. Documents covering company values, mission, vision, and shared beliefs.
2. Conduct internal and external stakeholder interviews and focus groups.

3. Perform on-site visits for observation and employee questionnaires to gauge culture and sentiment towards potential merger/acquisition.
4. Assess company practices for employee retention, training, indoctrination, recognition, and customer service levels.

Miscellaneous:

1. Review prior transactions between the business and insiders for fairness and propriety.
2. Investigate the prior experience and reputation of management and directors in the industry.
3. Obtain copies of all personnel policies and a complete employee list.
4. Analyze written employment contracts for terms and obligations.
5. Obtain descriptions of all pending labor disputes or disputes within the past five years.
6. Obtain sample employment applications and forms used for the evaluation of applicants.
7. Obtain copies of any complaints, proceedings, or orders under applicable affirmative action or pay equity legislation.
8. Obtain copies of Health and Safety reports and summaries of workers' compensation claims.
9. Summarize current vacation plans, paid leave, and other employee benefits.

10. Consider the impact of the transaction on key employee retirement and labor supply.

11. Obtain copies of Directors' and Officers' Questionnaires and all stock option and stock purchase plans.

Information Technology (IT)

The IT due diligence checklist focuses on evaluating the company's network infrastructure, system applications, data security, and compliance with licensing and export laws. It also reviews IT operational procedures, disaster recovery readiness, software usage, and the company's capacity for technological innovation and research development.

Infrastructure and Network:

1. Assess if the company's IT and network environment is primarily Windows-based and identify other supported platforms.

2. Provide a list of all company sites with network and e-mail connectivity, detailing the type of business, headcount, and circuit size at each site.

3. List any additional company sites not connected to a WAN.

4. Describe external connectivity, including remote access, partners, vendors, firewalls, and third-party data connections.

5. Detail the company’s website hosting environment, including location, server count, and service level agreements.

Internet

The Internet portion of the IT due diligence checklist assesses the company's use of the Internet for internal operations, security measures like firewall integrity, the provision of technical support via the website, the tracking and application of website usage data, and the potential for operational cost reductions through enhanced online customer interactions.

1. Does the company use the Internet for internal use as an interactive part of operations? What functions are used in this manner?
2. Has the company's firewall ever been penetrated, and how sensitive is the information stored on the company network's publicly available segments?
3. Does the company provide technical support information through its Web site?
4. Are Web site usage statistics tracked? If so, how are they used for management decisions?
5. In what way could operational costs decrease if the company's customers interacted with it through the Internet?

Systems and Applications:

1. Describe the company's e-mail and calendaring systems.
2. Identify internal business systems and applications supported, specifying the platforms they run on (e.g., Finance, HR, Sales, Operations, CRM).

3. Describe the security policies and procedures for the company's website and web services, including firewalls and traffic access points.

4. Outline connections between the company's website/web services and the internal office network, including usage and traffic volume.

Data Management and Security:

1. Provide details of the company's data backup solutions and disaster recovery processes.

2. Confirm if the company's website/web services use encryption.

3. List third-party IT and network service providers and fulfillment vendors.

4. Describe the operational interactions with customers and the maintenance of those relationships.

5. Detail the use of third-party software versus custom-built solutions, including maintenance contracts and version status.

6. Assess the extent of modifications to third-party systems and the impact on upgradeability.

Compliance and Licensing:

1. Evaluate monitoring of user computers for unauthorized software and the security of software distribution.

2. Determine the anticipated difficulty of integrating the company's databases into the buyer's systems.

3. Ensure there are adequate backup systems with offsite storage for corporate databases and individual computers.
4. List the software used by the company and provide copies of licensing agreements.
5. Detail any IT outsourcing agreements.

Operational and Strategic IT Review:

1. Assess current system usage, age, and the list of interfaces linking systems together.
2. Document IT processes, including application development, operations, disaster recovery, security, and cost management.
3. Gather information on the security and controls framework.
4. Detail any past cybersecurity incidents, including hacks or breaches.
5. Review the company's research and development plans for anticipated changes and cost implications.

Research, Development, and Compliance:

1. Evaluate the effectiveness of research and development personnel and their capacity for technological innovation.
2. Review royalty contracts for contingencies and verify terms with licensees.
3. Assess professional affiliations of management or R&D personnel for potential competing technology claims.
4. Ensure the company's exports comply with export control laws.

Insurance and Risk Management

The Insurance and Risk Management due diligence checklist aims to evaluate a company's insurance coverages, claims history, risk management strategies, and potential uninsured exposures to ensure comprehensive risk mitigation and financial protection against liabilities.

Insurance Policies and Coverage:

1. Compile a schedule of all insurance policies or binders, including types (medical, workers' compensation, disability, automobile, general liability, etc.), with deductibles, coverage limits, and significant terms.
2. Indicate the name and address of all insurance agents, brokers, and companies associated with these policies.

Claims and Loss History:

1. Prepare a schedule of insurance claims and provide a summary of the loss history for the relevant period.
2. Analyze premium payments and detail any cancellations or denials of insurance during this period.

Risk Management and Mitigation:

1. Summarize self-insurance programs or other risk retention strategies currently in place.
2. Compile a schedule of threatened or potential claims.
3. Determine if there is a designated risk management officer and outline their job description.

4. Assess whether the company has an overall risk mitigation plan and how regularly it is updated.

Insurance Review and Litigation:

1. Review all corporate insurance policies, noting whether terms are for “claims made” or “claims incurred,” and document the amounts of deductibles.
2. Investigate if aggregate insurance amounts have been approached or exceeded and any history of substantial premium adjustments.
3. Evaluate the extent to which the company self-insures its activities and identify any uninsured risks that may have been overlooked or ignored.

Specialized Insurance and Financial Analysis:

1. Review any key-man insurance policies and conduct a present value calculation of such policies.
2. Examine contractor's, professional's, and site-specific liability insurance, including a description of the claims history.

Intellectual property (IP)

The Intellectual Property (IP) due diligence checklist is designed to audit a company's IP assets, including patents, trademarks, copyrights, and related licenses. It also examines legal representations, IP management, any litigation or claims, and the protection of confidential information to ensure the company's IP portfolio is secure and leveraged effectively.

IP Portfolio Overview:

1. Compile a list of all foreign and domestic patents, patent licenses, trademarks, trade names, service marks, and copyrights held by the Company.
2. Provide copies of all material agreements for licensing of Company technology to/from third parties.
3. Describe the importance of existing patents and assess the necessity for additional patents.
4. List proprietary processes controlled by the Company.

Legal Representation and Management:

1. Identify the law firm handling patent and trademark matters for the Company, including contact information.

Detailed IP Assets and Agreements:

1. Detail US and foreign patents and patent applications, including dates of invention, application, issue, and all related prosecution files.
2. List US and foreign copyright (and mask work) registrations and applications, with relevant dates and documents.
3. Catalog US and foreign trademarks, service marks, trade names, and domain names, including registration applications and relevant dates.

IP Assignments and Licenses:

1. Document all agreements where intellectual property is assigned or licensed to/from the Company, including with employees and contractors.

2. Note any correspondence regarding alleged or potential IP infringement by the Company.

Research, Development, and Confidentiality:

1. Review any research and development or joint venture agreements related to product, process, or technology.
2. Examine nondisclosure agreements and other agreements relating to the Company's intellectual property.

Litigation and Claims:

1. Describe any past, current, or pending IP threats, claims, or litigation involving the Company.

Registration and Application Documentation:

1. Schedule and provide copies of all intellectual property registrations and pending applications.
2. Document the chain of title records and review all current IP agreements, noting renewal dates.

Revenue and Protection:

1. Itemize all pending patent applications and determine annual patent renewal costs.
2. Assess the current patent-related revenue stream and document the patent application process.
3. List all trademark and service mark registrations and applications, verifying the status of affidavits of use and renewals.
4. Catalog all unregistered trademarks and service marks used by the organization.

Confidential Information and Competitive Advantage:

1. Check for proprietary information marked as "confidential" and verify that Invention Assignment and Confidentiality agreements are executed by all employees.
2. Obtain copies of all licenses of intellectual property where the company is the licensor or licensee.

Litigation and Disputes:

1. List all IP-related lawsuits involving the organization.
2. Order searches for all patents, trademarks, copyrights, and trade names to determine their status and any disputes or infringement claims.

Contracts and Future Rights:

1. Review contracts granting or receiving licenses for intellectual property rights and those granting rights to future products developed by the Company.

Legal

The Legal due diligence checklist aims to evaluate a company's legal risks and compliance. It encompasses the review of litigation, contracts, regulatory adherence, corporate records, leases, transactions, public filings, intellectual property, and potential legal disputes. It also includes the analysis of legal costs, settlements, warranty claims, and regulatory inquiries to ensure thorough understanding of the company's legal health and obligations.

Litigation and Legal Actions:

1. Compile any pending or threatened litigation against or initiated by the company, including all active litigation files.
2. Gather any consent decrees, injunctions, judgments, settlements, or other orders.
3. Summarize material litigation and obtain copies of all attorneys' responses to audit inquiries and letters to auditors.

Contracts and Agreements:

1. Review copies of all contracts, including loan agreements, bank financing agreements, lines of credit, licensing, and franchise agreements.
2. Examine all guarantees to which the company is a party.
3. Summarize material contracts that are terminable upon a change of control or other corporate transaction.
4. Identify contracts that restrict the company's right to conduct its business and those with obligations such as covenants and indemnification.
5. Review indemnification agreements between the target and any officers, directors, or agents.

Compliance and Regulatory Matters:

1. Assess the target's compliance program, including policies, procedures, and related documentation.
2. Confirm compliance with OFAC regulations and other applicable laws.

3. Summarize regulations applicable to the company's business and anticipated changes.
4. Obtain and review any correspondence with regulatory agencies or authorities.

Corporate Documents and Good Standing:

1. Obtain the articles of incorporation and bylaws, reviewing for any special provisions.
2. Secure certificates of good standing for the company and significant subsidiaries.
3. Review the articles of incorporation and bylaws of each significant subsidiary.

Corporate Proceedings and Operations:

1. Obtain and review minutes from shareholder meetings and Board of Directors' meetings, including any special committees.
2. Review all contracts important to operations, especially those with default or termination provisions and restrictions on company actions.

Leases, Transactions, and Royalties:

1. Obtain copies of all asset and office space lease agreements.
2. Review all related party transactions and royalty agreements, particularly those involving company software.

Legal Expenses and Historical Proceedings:

1. Review legal invoices for the past two years.

2. Examine all pending and threatened legal proceedings, including governmental or environmental proceedings.

Public Company Filings and Reports:

1. If publicly held, obtain all periodic filings and review annual and quarterly reports to shareholders.
2. Research any press releases or articles about the company within the past year.

Intellectual Property and Property Ownership:

1. Review title insurance for any significant land parcels owned by the company.
2. In respect of all material contracts, assess assignability, enforceability, and any breaches.

Additional Agreements and Legal Correspondence:

1. Obtain copies of franchise, user or license agreements, government licenses and permits, and warranties of products sold.
2. Review proposed contracts or negotiations and obtain all material consents required for the business.

Litigation and Regulatory Actions Summary:

1. Provide a current list of all litigation, regulatory proceedings, and investigations involving the Company, with descriptions and statuses.
2. Describe currently threatened litigation, legal claims, regulatory actions, or other proceedings.

Compliance and Settlements:

1. Document any currently effective consent decrees, judgments, orders, settlement agreements, and similar agreements to which the Company is a party.
2. Detail any inquiries from governmental authorities regarding compliance with laws and regulations.

Warranty and Accounting Matters:

1. Describe any warranty claims made against the Company and the resolution of such claims.
2. Review any auditors' letters to management regarding internal accounting controls.

OSHA, EPA, and Labor Inquiries:

1. Summarize all inquiries from OSHA, EPA, EEO, Department of Labor, and other regulatory bodies.

Material Contracts

Material contracts are the legal documents that define the relationships and terms of business between a company and its partners, suppliers, customers, and other parties. They are critical to understanding the operational, financial, and legal health of a company. Here is a structured approach to reviewing material contracts during due diligence:

Partnerships and Agreements:

1. Collect any partnership, joint venture, distributorship, franchise, licensing, management, research and development, or similar agreements or contracts.

2. Compile contracts with customers or suppliers, including lists of the company's largest customers and suppliers with details of services and products provided.

Sales and Leases:

1. Gather material agreements related to the sale or lease of the company's personal property and any related financing arrangements.

2. Review all material warranty and service agreements, installment sales agreements, and any agreements restricting the company's competitive abilities.

Inter-Company and Affiliate Agreements:

1. Assess any inter-company agreements between the company and its subsidiaries, and any agreements between the company and its affiliates.

Reorganizations and Transactions:

1. Examine material purchase agreements and documents related to reorganizations, mergers, acquisitions, dispositions, and indemnification agreements.

Loans and Credit:

1. Analyze bank line of credit agreements, other loan agreements, guarantees by the company, and all outstanding leases for real and personal property.

Supplier and Customer Contracts:

1. Evaluate material contracts with suppliers or customers, noting any sole-source suppliers and reviewing model sales or manufacturing contracts.

Employment and Compensation Agreements:

1. Review agreements for loans to, and any other agreements with officers, directors, or employees, including bonus, retirement, pension, deferred compensation, profit-sharing, and management incentive agreements.

Insurance and Intellectual Property:

1. Schedule all insurance policies covering the company's property, including key person, director indemnification, and product liability policies.
2. Check for ownership of technology and the terms under which any company software is licensed, including associated royalty payments.

Leases and Transactions:

1. Obtain copies of all asset and office space lease agreements, reviewing terms, early payment, and renewal provisions.
2. Review all related party transactions for the past three years, including any outbound or inbound royalty agreements.

Legal and Regulatory Review:

1. Review all legal invoices for the past two years and all pending and threatened legal proceedings, including governmental or environmental proceedings.

2. If the company is publicly held, obtain all periodic filings for the past five years, including 10-K, 10-Q, 8-K, and Schedule 13D.

Reports and Publications:

1. Review all annual and quarterly reports to shareholders, auditors' letters to management, and reports from outside consultants or analysts.
2. Research any press releases or articles about the company within the past year.

Property and Renegotiation:

1. Review title insurance for any significant land parcels owned by the company.
2. Assess the status of contracts subject to the Renegotiation Act.

Operations

Operational due diligence is a comprehensive assessment of a target company's business processes and systems to identify potential risks and areas for improvement. It involves evaluating the effectiveness of the company's operations, including its sales, marketing, technology, supply chain, and production capabilities. Here is a structured approach to conducting operational due diligence:

Strategic and Operational Assessment:

1. Identify value drivers for the acquisition, including technology/products, key personnel, market access, revenue enhancement, cost savings, and synergies.

2. Assess marginal costs and strategic fit within the larger buyer organization.
3. Review the company's operating model, including key systems and processes, change management processes, and documented procedures.
4. Examine the organizational structure and primary/support activities.

Product and Service Evaluation:

1. Summarize tests, evaluations, studies, surveys, and data regarding existing and under-development products/services.
2. Identify key performance indicators, value drivers, and cost drivers.
3. Evaluate sales and marketing procedures, CRM systems, lead generation practices, and supply chain participants.
4. Analyze manufacturing sites, products manufactured, personnel, shifts, and capacity.

Supplier and Distribution Analysis:

1. Document supply chain processes, including delivery times, inventory availability, and transportation costs.
2. List main suppliers, discounts, terms, credit limits, and distribution channels.
3. Review third-party relationships, including developers, software duplicators, and manual publishers.

Financial Implications:

1. Determine facility and equipment overhead costs for varying capacity/utilization levels.
2. Ascertain capital replacements needed and periodic maintenance costs of equipment.
3. Estimate costs for modifications to increase capacity.

Legal and Compliance Review:

1. Describe the use of toxic chemicals in production and any related EPA or other investigations or claims.
2. Itemize synergies created by the acquisition, distinguishing between cost reductions and revenue increases.

Product and Service Specifics:

1. Summarize product recalls, warranty claims, new product developments, and ongoing R&D projects.
2. Review marketing materials, product descriptions, and policies related to pricing and warranties.

Product Development Insights:

1. Determine which products are nearing the end of their life cycle and the revenue attached to them.
2. List development projects, their unique attributes, and the key development personnel involved.
3. Evaluate the company's investment in development relative to sales and compare it to competitors.

Production Process Evaluation:

1. Assess the industrial engineering staff and their plan for process improvement.
2. Review the company's safety record and history of service rework.
3. Evaluate the company's manufacturing systems, constraint management techniques, and process obsolescence.

Property, Plant, and Equipment Analysis:

1. Obtain a list of real properties and review title opinions, surveys, leases, and encumbrances.
2. Review lists of machinery, equipment, and personal property.

Service Development Assessment:

1. Analyze service offerings nearing the end of their life cycle and the revenue attached to them.
2. Review the service development pipeline, unique attributes of new services, and the key development personnel.
3. Assess the threat of obsolescence for each significant service offering and compare with competitors.

Sales & Marketing

The Sales & Marketing due diligence checklist is designed to scrutinize a company's market position, branding, customer relationships, and sales infrastructure. It includes evaluating strategic partnerships, branding strategies, customer and market dynamics, marketing efforts, and sales performance. The checklist also covers the analysis of market trends, competitor activities, customer segmentation, and the effectiveness of advertising and promotional activities. Additionally, it assesses the potential for new customer acquisition, the financial stability of key accounts, and the company's capacity for market expansion.

Partnerships and Distribution

1. Assess the strategic importance of OEM partnerships.
2. Review significant contracts for contingencies and service obligations.
3. Analyze customer purchase financing and related agreements.
4. Evaluate the distribution network's adequacy and control mechanisms.
5. Assess the effectiveness of the marketing team and the cost of new service introductions.

Brands

1. Examine branding strategy and support plans.
2. Review budgets and actual spending on brand-related customer support and marketing.
3. Determine the methods of advertising and promotional activities used.
4. Confirm ownership and proper use of branded names, including web presence.
5. Monitor legal expenses for brand protection and encroachment issues.

Customers

1. Compile a list of top customers and analyze revenue trends.
2. Identify customers who have ceased business with the company.
3. Document key sales channel partners and their revenue contributions.
4. Break down sales and gross profits by various categories.
5. Review all significant customer and sales channel partner contracts.
6. Evaluate sales concentration and distribution across services and products.
7. Analyze the sales backlog and seasonality of sales.
8. Assess the financial health and longevity of key customer relationships.
9. Identify potential new customers and the associated revenue and profit potential.
10. Determine the service requirements and profitability of key accounts.
11. Review upcoming customer contract renewals and anticipated changes.
12. Investigate the history of customer complaints and associated account profitability.
13. List customers who have discontinued business in the last three years.

Market

1. Estimate market size, segmentation, growth, and profitability.
2. Identify factors influencing market growth and profitability.
3. Track trends in competition, innovation, and market regulation.
4. Compare business growth projections with market size forecasts.
5. Review industry reports and literature for market insights.
6. Analyze competitors' filings for industry trends.
7. Interview trade association personnel for industry trends.
8. Assess the company's competitive strengths and weaknesses.
9. Determine if R&D expenditures are in line with industry practices.
10. Obtain any studies on the company or market.

Marketing and Advertising

1. Collect strategic, marketing, or advertising plans.
2. Compile marketing materials including brochures and sales sheets.
3. Summarize marketing risks and opportunities.

Sales Activity

1. Determine ongoing maintenance revenue from standard services.
2. Obtain all outstanding proposals, bids, and offers.

3. Review existing contracts for services, including warranty and guarantee work.
4. Define the sales strategy and promotion methods.
5. Document the structure of the sales organization and geographic coverage.
6. Analyze sales force compensation and performance metrics.
7. Evaluate the technical support group structure and compensation.
8. Assess the potential market size and company market share.
9. Identify new markets for potential sales expansion.

Miscellaneous Sales and Marketing

1. List third-party developers and projects, including agreements.
2. Compile a list of competitors and pertinent market research.
3. Present recent analyses by investment bankers or consultants.
4. Review marketing and sales literature, including price lists and catalogs.
5. Document all distribution, agency, and advertising agreements.
6. Describe warranty and return policies and procedures.
7. Review distribution agreements and customer purchase agreements.
8. Summarize service and support contracts and marketing agreements.

Market Analysis

1. List products and services offered and in development.
2. Conduct market research including size, share, trends, and outlook.
3. Profile major competitors and top customers.
4. Analyze customer segments, churn rate, satisfaction, and lifetime value.
5. Identify major suppliers and any market entry barriers.
6. Summarize complaints or warranty claims.
7. Review long-term sales contracts and agreements with distributors and resellers.

***

Source List Citations

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Deal Documentation List

Note that this is not an exhaustive list and that every deal may have its own specific documents that are required for that particular deal.

- **Letter of Intent (LOI)**: Non-binding agreement outlining the terms and conditions.
- **Confidentiality Agreement (NDA)**: To protect sensitive information.
- **Asset Purchase Agreement or Stock Purchase Agreement**: The main contract for the transaction.
- **Bill of Sale**: Transfers ownership of assets.
- **Assignment and Assumption Agreement**: Transfers liabilities and obligations.
- **Intellectual Property Assignments**: If applicable.
- **Non-Compete Agreements**: For key employees or the seller.
- **Employment Agreements**: For key employees post-acquisition.
- **Escrow Agreement**: Outlining the terms under which the escrow agent will hold and release funds.
- **Closing Checklist**: Detailed list of all conditions that must be met for the closing to occur.
- **Board Resolutions**: Approving the transaction.

- **Regulatory Filings**: Such as Hart-Scott-Rodino filing in the U.S., if applicable.
- **Legal Opinions**: From legal counsel, if required.
- **Closing Statement**: Summarizing the financial aspects of the transaction.

Deal Process Checklist / Project Plan

As with other tools in this book, this is merely a template (a starting point) to create a repeatable process that works for you. Note that this plan does not include the prerequisite tasks discussed in Chapter 1. This plan is for the acquisition process itself. **Strategy** is done first and may or may not be revisited due to learning new information while conducting acquisitions. **Targeting** continues perpetually until all acquisitions are complete. Remember, this process also needs to be adjusted to fit your ability or desire to do sequential or simultaneous deals, as discussed in Chapter 9.

Strategy and Preparation

1. **Prerequisites**: Chapter 1 Prerequisite Assessment Complete
2. **Duration**: 1-3 weeks (depending upon readiness, internal team availability, and timing of hiring external resources)
3. **Team Involvement**: CEO, CFO, Other Deal Team Members (as appropriate)
4. **Steps**:
    a. Determine acquisition goals and target profiles
    b. Review financial capabilities and select appropriate deal structuring approaches
    c. Conduct market research to reinforce goals and establish target company type profiles
    d. Identify and select internal and external deal team members

e. Prepare deal process tools, including project plan, due diligence, and deal documentation templates

f. Set up deal tracking systems, including information systems, Project Management, and virtual data rooms (VDRs)

g. Conduct deal process kick-off meeting with full deal team

Targeting

1. **Prerequisites**: Completed or Updated Acquisition Strategic Plan

2. **Duration**: Ongoing, starting immediately after or during Strategy and Preparation and lasting until the final acquisition is complete.

3. **Team Involvement**: Deal Team, Buy-Side Broker/Advisor (if retained)

4. **Steps**:

    a. Research and refine potential target opportunities

    b. Establish or refine standard target definitions

    c. Develop targeting strategies and tools

    d. Develop or augment the target list

    e. Prioritize targets (by potential, viability, type, simplicity/complexity, etc.)

Outreach and Pre-Deal

1. **Prerequisites**: Properly developed (researched and prioritized) target list
2. **Duration**: 1-3 weeks per target, depending largely upon responsiveness; Approach multiple targets simultaneously. Outreach is an ongoing task and includes Pre-Deal Analysis and becomes prospective deals.
3. **Team Involvement**: CEO, Key Deal Team Members, Buy-Side Broker
4. **Steps**:
    a. Determine target specific outreach approach (direct, chief-to-chief, "business catnip", events, etc.)
    b. Conduct initial outreach – establish relationship, then dig deeper
    c. Execute NDA (timing depends on Seller)
    d. Leverage the initial screening questionnaire to determine target viability
    e. Perform target preliminary valuation and deal structure analysis (based on preliminary diligence information and data)
    f. Conduct further preliminary diligence (as needed, per target)
    g. Develop an offer or bid and negotiate (leverage financing options, deal documentation templates)
    h. Assemble and negotiate the letter of intent (LOI)

Due Diligence

1. **Prerequisites**: Fully executed LOI
2. **Duration**: 30-60 days per deal (depending upon the complexity of target operations and what is agreed to in the LOI)
3. **Team Involvement**: Full Deal Team
4. **Steps**:
    a. Set up deal due diligence checklist in VDR solution
    b. Communicate due diligence requirements to the seller
    c. Actively collect, review, and analyze due diligence information
    d. Full financials review with external financial diligence team, including determination of net working capital requirements
    e. Full legal diligence review with deal attorney team
    f. Other specialized diligence reviews as required
    g. Reconfirm deal price and structure
    h. Develop integration plans, including all people, places, systems, and "stuff" plans
    i. Arrange for third-party participation in financial arrangements as necessary
    j. Arrange for bank or private financing as required
    k. Prepare all special license applications or regulatory approval requirements

l. Prepare deal documentation and review/edit process with the seller team

m. Prepare for closing

n. Conduct closing process

Post-Closing / Integration

1. **Prerequisites**: Closed deal
2. **Duration**: 90-180 days per deal (depending upon the complexity of the deal and the integration plan)
3. **Team Involvement**: Full Deal Team
4. **Steps**:

    a. Complete issuance of any equity instruments required by deal structure (i.e., issuance of stock or membership unit certificates for rollover equity)

    b. Conduct manager and employee evaluations (first 30 days)

    c. Make team adjustments

    d. Relocate operations, consolidate facilities, or other physical movements, as needed

    e. Follow through with all deal-related accounting adjustments and financial obligations, including NWC adjustments, holdbacks, etc.

    f. Conduct any asset sales, disposals or other actions planned as part of the deal structure

g. Integrate systems or conduct new systems selections, as required and planned

Summary of Resources or Team Members

- Internal Strategy Team: Guides the overall acquisition strategy.
- Financial Advisor/Analyst: Assists with financial readiness, valuation, and securing financing.
- CFO/Accountant: Manages financial assessments and oversees financial integration.
- Market Research Team/Industry Experts: Conducts market analysis to inform strategy.
- Risk Management Consultant/Legal Advisor: Identifies and mitigates acquisition risks.
- M&A Consultant: Helps identify targets, negotiate terms, and manage the acquisition process.
- CEO: Leads initial approaches and final negotiations.
- Legal Team: Prepares NDAs, reviews legal documents, and ensures compliance.
- HR Consultant/Internal HR Team: Assesses cultural fit and manages human resource integration.
- Valuation Expert: Conducts business valuation.
- Operations Consultant/IT Specialist: Reviews operational and IT systems for integration.

- Integration Manager: Oversees the integration process post-acquisition.
- PR Team: Manages communication with stakeholders.

The time commitment for an SMB owner will vary based on the complexity of the acquisition and the resources available. It's important to note that while the owner will be involved in each stage, the day-to-day tasks will often be delegated to the respective team members or external advisors.

Initial Screening Questionnaire and Scripts

NOTE that these are model scripts and can be modified, but the flow of the conversation should generally follow this model.

Possible Email to Initiate Conversation

Hello [Recipient's Name],

I hope this message finds you well. My name is [Your Name], and I am the [Your Position] at [Your Company Name]. We've been actively engaging with leaders in [Industry/Market] as part of our initiative to foster a collaborative network among businesses that share a similar passion and drive for innovation and growth.

In our quest to learn from the best and explore potential synergies, I came across your company, [Their Company Name], and I was truly impressed by what you've accomplished. Your reputation for [Something Notable About Their Company] speaks volumes, and it's clear that your team is doing something right.

I believe there's tremendous value in sharing knowledge and experiences, and I'm reaching out to see if you'd be open to a conversation. I'm very interested in hearing about your journey, the lessons you've learned, and the insights you've gained while building and growing your business. I'm convinced that there's a lot we can learn from each other, and perhaps there are ways we can support one another as we navigate the future.

Would you be willing to participate in a brief, informal discussion? I've prepared a few questions that I believe will guide our conversation to be both enjoyable and informative. It's not every day that we get an opportunity to connect with fellow entrepreneurs who are also committed to excellence in our field.

Please let me know if you're available for a chat. I'm flexible with timing and can work around your schedule. I'm looking forward to the possibility of discussing our businesses and the potential paths ahead.

Warm regards,

[Your Full Name]

[Your Position]

[Your Contact Information]

[Your Company Name]

This script is designed to initiate a dialogue that could naturally lead to discussing deeper business matters, including potential acquisitions, without revealing the acquisition intent upfront.

Cold Call Script

(INTRODUCTION)

You: Good [morning/afternoon], may I speak with [Recipient's Name], please?

(ONCE THE RECIPIENT IS ON THE LINE)

You: Hello [Recipient's Name], my name is [Your Name], and I'm the [Your Position] at [Your Company Name]. I hope I'm not catching you at a bad time. Do you have a moment to talk?

(ASSUMING THE RECIPIENT AGREES TO CONTINUE)

You: Thank you for taking my call. I'll be brief. We're reaching out to dynamic leaders in the [Industry/Market] as part of a new initiative to build a network of innovative businesses. Your company, [Their Company Name], caught our attention due to its impressive [Something Notable About Their Company], and I believe there's a lot we can learn from each other.

(BUILDING RAPPORT)

You: I'm genuinely interested in hearing about your journey and the strategies that have contributed to your success. I'm sure there are insights and experiences you've had that could be invaluable, and perhaps there are ways we can support each other's endeavors.

(SETTING THE STAGE FOR THE QUESTIONNAIRE)

You: I have a few questions that I think could lead to an interesting exchange of ideas and potentially uncover areas where we might collaborate or support one another. This wouldn't be a sales call—I'm just looking to connect with like-minded business leaders.

(SEEKING PERMISSION)

You: Would you be open to scheduling a brief call or meeting to discuss this further? I promise to keep it concise and focused on potential mutual benefits. What does your schedule look like in the coming days?

This script is designed to be respectful of the recipient's time while clearly stating the intent of the call. It opens the door for a deeper conversation without immediately diving into sensitive topics like financials or acquisition intentions.

Preliminary Screening Questionnaire

Part 1: Getting to Know the Business

1. Company Origins and Background
    a. Can you share the story behind the inception of your business?
    b. What inspired you to start this company?
2. Business Evolution
    a. How has your business evolved since its establishment?
    b. Could you walk us through some of the milestones your business has achieved over the years?
3. Current Business Model and Offerings
    a. What is your current business model, and how has it changed over time?
    b. Can you describe your core products or services?
4. Market and Customer Base
    a. Who is your target market, and how do you approach them?
    b. Can you tell us about your customer base and how it has grown?
5. Competitive Landscape
    a. How do you differentiate your business from competitors in your industry?

    b. What do you consider your company's unique selling proposition (USP)?

6. Vision and Future Goals
    a. Where do you see your business in the next five years?
    b. Are there any new markets or products you are exploring?
7. Challenges and Triumphs
    a. What have been some of the biggest challenges your business has faced?
    b. Can you share a significant triumph or a turning point for your company?

Part 2: Business Performance and Financial Health

1. Financial Performance
    a. How has your company's financial performance trended over the past few years?
    b. Can you share any key financial metrics that you use to gauge your business's success?
2. Operational Efficiencies
    a. What operational processes do you believe give your company an edge?
    b. Are there any recent operational improvements that have positively impacted your business?
3. Growth Strategies
    a. What strategies have you employed to achieve growth?

   b. How do you measure the effectiveness of these strategies?

4. Investment in Technology and Innovation
   a. How does your company approach technology and innovation?
   b. Are there any recent technological advancements that have been pivotal for your business?
5. Financial Management
   a. How do you manage financial risks in your business?
   b. Can you discuss any financial management practices that have been particularly beneficial?
6. Revenue Streams
   a. What are the primary revenue streams for your business?
   b. Have you diversified your revenue streams, or are there plans to do so?
7. Profitability and Cost Management
   a. How do you approach cost management and profitability?
   b. Are there any cost-saving measures that have significantly affected your bottom line?

Part 3: Exploring Future Opportunities

1. Expansion and Scaling

   a. Are you looking at scaling your business, and if so, in what capacity?
   b. What does expansion look like for your company?

2. Partnerships and Collaborations
   a. How open is your business to partnerships and collaborations?
   b. Have you engaged in any partnerships that have been instrumental to your business?

3. Long-term Aspirations
   a. What are the long-term aspirations for your business?
   b. Are there any legacy or societal impacts you hope your business will achieve?

This questionnaire is designed to build a comprehensive picture of the business in question, laying the groundwork for more in-depth financial analysis and potentially leading to discussions about acquisition in a non-threatening manner.

Closing Scripts

Here are two versions of the closing script for the questionnaire to be used depending upon whether the company is a good fit for the acquisition criteria or not:

Version 1: Company Does Not Fit Acquisition Criteria

You: [Recipient's Name], I can't tell you how much I appreciate the time you've taken to speak with me today. Your insights and the story of [Their Company Name] are truly inspiring. While our conversation has been incredibly informative, I believe that at this time, our paths towards collaboration may not align as I had hoped. However, I want to express my gratitude for the opportunity to learn about your business and your journey. I wish you continued success and hope that our paths cross again under different circumstances. If there's anything we can assist with in the future, please don't hesitate to reach out. Thank you once again, and have a wonderful day.

Version 2: Company Is a Good Fit for Potential Acquisition

You: [Recipient's Name], this conversation has been enlightening, and learning about [Their Company Name] has been an absolute pleasure. Your achievements and vision for your business resonate with us, and it's clear that you've built something exceptional. If you don't mind me asking, have you ever considered what the future holds for your company in terms of ownership? I ask because, in the course of our discussion, I couldn't help but see potential synergies that might be worth exploring further. Would you be open to a follow-up conversation to discuss possibilities, perhaps even the idea of acquisition? Of course, this is just exploratory at this stage, but I believe it could be mutually beneficial to consider what opportunities might exist for us both. Can we schedule a time to continue this discussion?

Both scripts are designed to conclude the conversation respectfully and appropriately, based on the potential for future engagement.

Sample Non-Disclosure Agreement (NDA)

MUTUAL NON-DISCLOSURE, NON-COMPETE AND NON-CIRCUMVENTION AGREEMENT

This Mutual Non-Disclosure, Non-Compete and Non-Circumvention Agreement (the "Agreement") is made on the ___________________ by and between [BUYER COMPANY NAME], a [Place of formation and Entity Type] ("Company"), with a mailing address of [Buyer Business Address], and [SELLER COMPANY NAME] ("Other") a [Place of formation and Entity Type], with a mailing address of [Seller Business Address], , each a "party" and collectively "the parties" hereto. Each party enters this Agreement on behalf of itself, its owners, members, officers and/or directors, its subsidiaries and its affiliates and any agents and assigns.

1. **Purpose**. The parties are evaluating the possibility of entering into a potential business relationship. In connection with their discussions and such potential relationship, the parties have disclosed or may disclose to each other Proprietary Information (as defined below) in reliance on the terms of this Agreement, and hereby agree as provided herein.

2. **Proprietary Information**.

a. **Definition.** "Proprietary Information," for the purposes of this Agreement, means all information, concepts, approaches, plans, models and know-how, whether or not in tangible form and whether disclosed previously, presently or subsequently, that is disclosed by one party (the "Disclosing Party") to the other (the "Receiving Party") and is related to the business, technical, or financial affairs of the Disclosing Party or its parent, subsidiaries, affiliates, investors, customers, potential customers, suppliers or potential suppliers. Proprietary Information may include, without limitation, any invention (whether patentable or not), product, formula, method, technique, project, development, vendor information, customer information, apparatus, equipment, trade secret, process, research, report, financial data, technical data, software code, software documentation, hardware design, technology, marketing or business plan, forecast, financial statement, budget, license, price, cost or personnel data. Failure to mark or designate any Proprietary Information as confidential or proprietary shall not affect its status as Proprietary Information under this Agreement.

b. **Exclusions.** Notwithstanding the foregoing, Proprietary Information shall not include information that (i) is or becomes public knowledge (through legal means without fault by the Receiving Party or its affiliates, agents, or employees), (ii) is known to the Receiving Party prior to the disclosure of the same pursuant to this Agreement, such prior knowledge being provable via documentation or other materials in the control or possession of the Receiving Party that verifiably pre-date the disclosure by the Disclosing Party, and provided the Receiving Party also complies with any restrictions imposed thereon by any third party, (iii) was rightfully and previously disclosed to it by a third party, such prior disclosure by a third party being provable via documentation or other evidentiary materials that verifiably pre-date the disclosure by the Disclosing Party, and provided the Receiving Party complies with any restrictions imposed thereon by such third party, or (iv) was independently developed without use of any Proprietary Information of the Disclosing Party where such independent development can be proven by documentation, materials or other evidence that clearly indicates that no Proprietary Information from the Disclosing Party was used in that development process. In addition, the Receiving Party shall be entitled to release the Disclosing Party's Proprietary Information if required by an order of a court or government agency; provided, however, that the Receiving Party attempts in good faith to limit such release of Proprietary Information to the greatest extent reasonably possible under the circumstances and provides the Disclosing Party with advance notice (to the greatest extent reasonably possible under the circumstances) to permit the Disclosing Party to seek an order protecting its Proprietary Information from such disclosure.

3. Obligations.

a. The Receiving Party will: (i) hold the Receiving Party's Proprietary Information in confidence and take reasonable precautions to prevent its disclosure (including without limitation all precautions it uses for its own confidential information of like kind); (ii) restrict disclosure of the Disclosing Party's Proprietary Information to those of the Receiving Party's employees, parent company, subsidiaries, officers, directors, legal and financial advisors and agents who have a need to know the same and who have previously agreed to terms for the protection of confidential information substantially as restrictive as the provisions hereof; (iii) not disclose any of the Disclosing Party's Proprietary Information or any part thereof to third parties (except as expressly authorized above); (iv) not copy, recreate, reverse engineer (if applicable) or modify any Proprietary Information in whole or in part unless expressly agreed to in writing by the Disclosing Party, (v) not directly or indirectly initiate, solicit, negotiate, contract or enter into any business transactions, agreements or undertaking with any such third party identified or introduced by the Disclosing Party, (vi) not seek to by-pass, compete, avoid or circumvent the Disclosing Party in respect of any business opportunity that relates to the Purpose by utilizing any Confidential

Information or by otherwise exploiting or deriving benefit from the Confidential Information, and (vii) in general, not use Proprietary Information other than for the purposes for which it was disclosed.

b. Upon the request of the Disclosing Party, the Receiving Party shall destroy all materials in its possession or control that contain the Disclosing Party's Proprietary Information or (at the election of the Disclosing Party) return the same to the Disclosing Party, and in either case shall certify its compliance with the terms of this provision. The Receiving Party's obligations under this Agreement will survive any compliance with a request made under this Section 2(b).

c. Receiving Party acknowledges that sole and complete ownership of the Proprietary Information remains with the Disclosing Party and that such Proprietary Information constitutes trade secrets.

d. The Receiving Party further agrees to not use the disclosed material and Proprietary Information in any competitive form or fashion, either directly or indirectly. And the Receiving Party will not disclose nor help any third party to compete in the marketplace using the disclosed Proprietary Information.

4. General. If a court of competent jurisdiction holds any of the provisions of this Agreement are invalid or un- enforceable, the remaining provisions of this Agreement shall remain in full force and effect. No delay or omission by either party in exercising any right under this Agreement will operate as a waiver. This Agreement is governed by and will be construed in accordance with the laws of the State of Nevada without regard to conflicts of law principles. The prevailing party in any action to enforce this Agreement shall be entitled to recover its costs and attorney's fees. Both parties acknowledge that due to the unique nature of each party's Proprietary Information, there can be no adequate remedy at law for any breach of this Agreement, and that therefore upon any breach or threat thereof, the Disclosing Party shall be entitled to appropriate equitable relief in addition to any other remedies that may be available to it. Nothing in this Agreement shall be construed as establishing or implying any partnership between the parties and nothing in this Agreement shall be deemed to constitute either of the parties hereto as the agent of the other party, or to authorize either party to incur any expense on behalf of the other party or to commit the other party in any way whatsoever. Nothing contained in the Agreement shall be construed as implying any commitment or agreement by either party to make any investment in the other party or in any business of the other party or to enter into any other business arrangement of any nature whatsoever with the other party.

5. Notices. All notices, requests and consents under this Agreement shall be in writing and shall be deemed to have been delivered (a) on the date personally delivered (b) on the date mailed, postage prepaid by certified mail with return receipt requested to the applicable address set forth in the first paragraph above, (c) when sent via e-mail and confirmed by e-mail reply to the applicable e-mail addresses specified herein below.

6. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto concerning the subject matter hereof and supersedes any prior or contemporaneous agreements and understandings concerning such subject matter. This Agreement may be amended, waived, or revoked only by a written instrument executed by both parties hereto. This Agreement shall survive the execution of any contract between the parties, or the termination of any business relationship between the parties, unless otherwise expressly agreed.

IN WITNESS WHEREOF, the parties, by their authorized representatives, have executed and delivered this Agreement as of the date set forth below.

[BUYER COMPANY NAME]

____
BY:
____
ITS:
____
EMAIL:
____
ON:
____

[SELLER COMPANY NAME]

____
BY:
____
ITS:
____
EMAIL:
____
ON:
____

Valuation Multiple Sources

Here is a list of sources that provide information on industry multiples for company valuations in M&A. Note that multiples are not equal and many publish averages across a broad range of company sizes. For purposes of Acquire Before You Exit, the industry averages are interesting and give you a goal for where you want to be for your exit, but for the companies that you will most likely be acquiring, be sure to look at multiples that are appropriate to the company size.

1. **Pepperdine Private Capital Markets Project** - (https://digitalcommons.pepperdine.edu/gsbm_pcm_pcmr/) - Offers comprehensive, proprietary research on the private capital markets, including insights into current industry multiples and investment trends.

2. **Equidam** - https://www.equidam.com/ebitda-multiples-trbc-industries/ - A table of valuation multiples by Industry. They also provide valuation and other services.

3. **First Page Sage** - https://firstpagesage.com/seo-blog/ebitda-multiples-by-industry/ - Provides a great little chart of EBITDA multiples by industry including by revenue type and for small to medium sized businesses ($0-10M EBITDA).

4. **Siblis Research** - https://siblisresearch.com/data-services-pricing/ - Services include data for EBITDA multiples across industries. Requires subscription.

5. **New York University Stern School of Management** - https://pages.stern.nyu.edu/~adamodar/New_Home_Page/datafile/vebitda.html - Great chart that is updated regularly

and shows EBITDA multiples across a wide range of different industries.

6. **Full:Ratio** - https://fullratio.com/ebitda-multiples-by-industry - Post includes an explanation of how EBITDA multiples are calculated and used plus a current table of multiples by industry.
7. **BizBuySell Insight Reports** - (https://www.bizbuysell.com/insight-report/) - Publishes quarterly Insight Reports that include statistics on small business transactions and valuation multiples across various industries.
8. **BVR's DealStats Value Index** - (https://www.bvresources.com/products/dealstats-value-index) - Provides a quarterly report on valuation multiples and median selling prices for private companies compiled from the DealStats platform. Also formerly known as Pratt's Stats, it also provides information on private company merger and acquisition (M&A) details, including financials and valuation multiples.
9. **Eqvista** - https://eqvista.com/ebitda-multiples-by-industry/ - Has a decent overview of calculations that go into valuations as well as an extensive list of industry average multiples.
10. **IBBA Market Pulse Survey** - (https://www.ibba.org/market-pulse/) - In partnership with M&A Source and the Pepperdine Private Capital Markets

Project, it offers a quarterly report on market trends and multiples in the business brokerage industry.

11. **PitchBook Benchmarks** - (https://pitchbook.com/data) - Provides comprehensive data on private equity and venture capital market trends, including valuation multiples.
12. **GF Data Resources** - (https://www.gfdata.com/) - Offers detailed reports on private equity-sponsored middle-market transactions, including valuation multiples.
13. **PwC's Deals Industry Insights** - (https://www.pwc.com/us/en/services/deals/industry-insights.html) - Provides insights and data on deal strategy, due diligence, and trends, including industry multiples.
14. **Valuation Resources** - (http://valuationresources.com/) - Offers industry-specific valuation multiples, economic reports, and industry outlooks.
15. **Capital IQ** - https://www.capitaliq.com/ - Typically requires a subscription or academic institution affiliation. Provides financial data, analytics, and research, which includes valuation multiples for various industries.
16. **Thomson Reuters Eikon** - https://eikon.refinitiv.com/ - Via subscription only. - Delivers a broad range of data, including market, company, and industry information, which can be used to analyze valuation multiples.

These sources are widely used by professionals in the field of mergers and acquisitions to benchmark valuations and understand industry trends. Access to some of these databases may require a subscription or association with an academic institution. If you work with a buy-side broker or investment banker, be sure to find out which indexes they use and have regular access to for determining industry multiples.

Sample Letter of Intent (LOI)

[ON COMPANY LETTERHEAD]

STRICTLY PRIVATE AND CONFIDENTIAL

[Date]

VIA EMAIL ([POC Email Address])

[POC Full Name]
[POC Title]
[Company Name]
[Street Address]
[City], [ST], [Zip]

RE: Letter of Intent to acquire [Company Name]

Dear [Company POC First Name] -

Pursuant to recent discussions, we are pleased to submit the following proposal (this "***Letter of Intent***" or "***LOI***") by [Your Company Name] ("***Buyer***" or "[Short Buyer Company Name]" herein) to acquire (the "***Transaction***") [Seller Company Name] (the "***Seller***" or "[Short Name]" herein) each also a "***Party***" herein and collectively the "***Parties***" hereto. This LOI describes our understanding of the deal at this point and the terms upon which we currently expect to execute the Transaction.

1. **Buyer**. As described above, the "Buyer" for the agreements will be [Your Company Name], a [Type of Entity] formed under the laws of [Place of Formation], with a primary business address of [Your Business Address]. The primary point of contact ("***POC***") for Buyer is [Buyer POC Name], [Buyer POC Title], with an email

address of [Buyer POC Email Address] and a primary contact phone number of [Buyer POC Phone Number].

2. **Seller**. The “Seller” for this transaction will be the shareholders of [Seller Company Name], a [Entity Type] formed under the laws of [Place of Formation], with a primary business address of [Company Business Address]. The primary point of contact for [Short Name] is [POC Full Name], [POC Title], with an email address of [POC Email Address] and a primary contact phone number of [POC Phone Number].

3. **Background and Deal Basis**. The following reflects our understanding of the current state of the Company as well as those specific aspects of the Company that are the basis for how we expect the Transaction to be completed as described in this LOI.

    a. [Brief Description of Company and Assets – what are you buying?] (the “***Business***”).

    b. [General Description of Company Financial State- understanding of revenue, profit, etc., likely from interviews or a prospectus or other documentation received during initial diligence]

    c. [If a share purchase, also describe the Shareholder / Cap Table Situation – how many shareholders, how many shares – this is NOT a full cap table at this stage]

    d. [If an asset purchase, describe the key assets that Buyer expects to acquire. This may be as simple as saying “all or substantially all of the assets of Seller”].

    e. [Description of Situation(s) leading to Sale Decision]

    f. [Description of Valuation Process, Valuation Basis, and conclusion of Company Valuation – what records were examined, a weighted average of revenue and EBITDA for the past two or three years, a multiple based on the industry or type of business, and the resulting value of the company]

4. **Purchase Price and Proposed Deal Structure**. Buyer is proposing to acquire the Business as a [share / asset] purchase upon the following anticipated terms and conditions which are subject to change or re-negotiation based upon data or other information reviewed as part of the due diligence process that impact any or all of the terms below:

    a. [Structure of Deal / Deal Terms – Multiple Sub-Paragraphs if Needed – i.e., if there is a down payment, a share price or a seller note, different payout dates, and an earn out, that may be four paragraphs. You may keep this relatively simple for the LOI (e.g., a down payment, bank loan and seller note) and then get more creative when you put together the final deal.]

    b. [Total Purchase Price – the total amount of consideration to be paid of all types once the Transaction is completed]

    c. [Other special conditions or requirements for the deal – e.g., this could be that the company successfully exits from probate prior to the completion of due diligence, or that a bankruptcy judge or receiver approves the deal]

5. **Real Estate**. [Briefly describe what real estate assets will be included in the transaction including whether they will be purchased or if they are on a lease that will need to be assumed – provide current estimated value of purchased real estate and the monthly lease rate and remaining lease duration for leased real estate, if known and if not leave it "to be specifically determined during due diligence". Alternately, state: "No real estate assets will be transferred to Buyer by Seller by this Transaction." *This is important because real estate can require additional deal diligence and documentation.*]

6. **Inventory**. [Briefly describe the general nature of what inventory is being acquired as art of the Transaction (e.g., "Buyer expects to acquire all spare parts, lubricants, and other inventory currently held by Seller for use in the Business as part of the

transaction. The specific items, quantities value, and any encumbrances thereon will be determined as part of Due Diligence." Inventory may also include or encompass raw materials or incomplete work in progress. Alternately, if there is no inventory, either delete this section or state: "No inventory is currently expected to pass from Seller to Buyer as part of this purchase." *It's important to capture a base perception of Inventory because it can be a big part of a company's valuation and may also involve debts owed to vendors, ongoing credit facilities, etc.*]

7. **Financing.** [If applicable: "Buyer requires financing in order to complete this purchase and the purchase is expressly conditioned upon Buyer being able to secure financing on terms acceptable to Buyer within the Due Diligence period. Buyer has already started the process of securing financing for this purchase and will move forward with those preparations as soon as this LOI is executed." *– Delete this paragraph if not required – and modify if the financing agreed upon is a seller note, in which case if you have already determined rate, duration and other terms for that note, state them here with a notation that they may be subject to change based on the completion of due diligence.*]

8. **Employees.** [*Preserving employment for key individuals is often a key aspect of a deal. When it comes up as part of pre-LOI discussions, you can cover it in the LOI as follows:* "As part of the Transaction, certain key employees would be offered continued employment with the Business post-Closing under terms similar to those already being enjoyed, which employees, terms and conditions are subject to review and approval by Buyer during Due Diligence."]

9. **Due Diligence Period & Process**. Buyer requests a [30/45/60/90-day – the size of the timeframe should be appropriate to the size of the company being acquired and how much effort will be required] Due Diligence period. Provided the process is progressing to the satisfaction of both parties, and only if

necessary, that period may be extended upon the written agreement of both parties hereto. The Due Diligence period will commence on the next business day after the date that it is agreed to and signed by Seller (the "***Effective Date***"). Buyer has a team of experienced investment professionals and advisors ready to begin formal diligence immediately after the Effective Date. The parties also agree to begin formulating the Definitive Agreements (described below) during Due Diligence such that they can be finalized and are ready for execution by the scheduled Closing Date. Although it's likely there will be additional areas of examination that come to light as we talk with personnel made available to Buyer for this process and as we examine provided data, materials, systems, and other information in more detail, the key areas of focus for Due Diligence are expected to encompass the following:

a. Review of full financial data including updated financials for [Financials Time Frame – usually 3-5 years and up to most recent accounting closing date – e.g., last day of the month prior to the date of this LOI];

b. Full determination of current liabilities and debts of the Company including identification of which liabilities and/or debts will be satisfied prior to Closing;

c. Review of service line pricing structures across all divisions or business lines including customer or user history;

d. In person and on-site reviews and inspections of equipment and facilities, potentially with the assistance of third party experts;

e. As necessary and appropriate, interviews with and assessment of current key management team members;

f. Review of all licenses and related or other regulatory filings and records, including any complaints or issues filed with regulatory authorities and the current status thereof as well as potential cost required for any resolution, and investigation of any currently unknown issues regarding any sale and transfer applications for Seller;

g. Review of systems and IT platforms and infrastructure including websites, client portals, mobile apps, custom software applications in use by the Company, and the like;

h. Review of all material contracts including all equipment and facilities leases, employment contracts, vendor contracts and all other documents or agreements used and/or critical to the conduct of the business;

i. Review of sales and marketing assets, materials and opportunities available to or in use by the Company;

j. All other customary accounting, tax, compliance, insurance, legal, and human resources diligence areas.

10. **Closing**. The closing of this transaction (the "***Closing***") will involve the signing of the Definitive Agreements as well as the transfer of consideration described above and provided for in the agreements. It will be scheduled to take place on a date that is beneficially timed from an accounting perspective that is also as soon as possible following the completion of the Due Diligence process described above, and is currently anticipated to be [Closing Date] (the "***Closing Date***").

11. **Banking / Working Capital Requirements**. The parties will determine during the Due Diligence process what bank accounts are necessary to the continued operations of Seller and what balance needs to be left in those accounts as well as what levels of other working capital sources are required for the ongoing operation of the business as part of this transaction (the "***Working Capital Requirements***"). This exercise will also include determination of any "straddle" issues (i.e., those that begin before but cannot be concluded until after the Closing Date) that affect or need to be accounted for in the Definitive Agreements. It will also determine what the normalized level of net working

capital is the business and determine what that level needs to be at closing, which approximate amount will also be provided for in the Definitive Agreements.

12. **Ordinary Course / Standstill Agreement.** During the time this LOI is in effect and through the Closing Date, Seller will continue to conduct its business in the ordinary course consistent with past practice and will notify Buyer prior to entering into any material extraordinary transactions or other events outside the ordinary course of business. Additionally, Seller also agrees not to change any of its accounting policies or practices during the Due Diligence period through closing. Following the execution of this LOI, and until the Closing or a termination of this LOI as provided for herein, Seller also agrees not to sell any portion of the Business or raise capital or otherwise perform transactions that affect the capitalization structure of the Company.
13. **Access to Confidential Information**. After the execution of this LOI, and subject to any non-disclosure agreement (the "***NDA***") signed prior to the date of this LOI, Buyer and its advisors shall have full access to any and all information about the Business. The Buyer shall maintain a fiduciary duty to keep the information that it obtains confidential and agrees to not share with any third (3rd) party unless the Seller gives their written consent or unless compelled to by operation of law.
14. **Return of Materials**. Any information that is obtained by Buyer from Seller shall be returned if a Definitive Agreement or Closing cannot be completed.
15. **Exclusivity**. Seller agrees to work in good faith expeditiously towards a closing and agrees that it will not, anytime prior to the planned Closing Date, take any action to solicit, initiate, encourage, or assist the submission of any proposal, negotiation or offer from, or otherwise discuss with any person or entity other than Buyer relating to the sale or issuance, of any of the equity interests of the Company, the acquisition, sale, lease, license, recapitalization (whether equity or debt financed) or other disposition of the Company or any material part of the stock or

assets of the Company ("***Alternative Transaction***") and shall notify Buyer promptly of any inquiries by any third parties in regards to the foregoing. The exclusivity will auto-renew for additional 10-day increments if each of the Company and Buyer are working diligently and in good faith to close the transaction. Seller and its shareholders will immediately cease any discussions with third parties regarding an Alternative Transaction.

16. **Confidentiality**. Each party hereto agrees that it will not make any public disclosure, other than to attorneys, accountants, financial advisors and financing sources (who will be advised of the existence of the restrictions contained in this paragraph prior to disclosure), of the existence of this LOI or of any of its terms without first advising the other parties and obtaining the written consent of such other parties to the proposed disclosure, unless such disclosure is required by applicable law or regulation, in which event the party contemplating disclosure will inform the other parties of and obtain their consent to the form and content of such disclosure, which consent shall not be unreasonably withheld or delayed.

17. **Approvals and Conditions.** Any final proposal will be subject to: (a) completion of Due Diligence; (b) the negotiation and execution of mutually satisfactory Definitive Agreements; and (c) final approval of Buyer's principals and shareholders. Neither party has indicated any awareness of any legal, regulatory, or antitrust matters that would adversely affect either party's ability to complete the Transaction.

18. **Legal Documentation**. Transaction will be subject to, among other things, the execution and delivery by all appropriate parties of definitive legal documents (the "***Definitive Agreements***") customary for transactions of this type, including without limitation, a Purchase Agreement ("***PA***") with warranties, closing conditions, escrows, covenants, and indemnification customary for transactions of this type, subject to customary limitations. Further, Buyer expects the Sellers and key management to sign, subject to applicable law, customary non-compete and non-

solicitation arrangements, if and as appropriate. Additional deal documentation may be required and included as part of the Definitive Agreements as determined by the results from Buyer's due diligence, legal input by counsel for both Buyer and Seller, and the final deal structure agreed to by the parties.

19. **Expenses**. Each party will bear their own expenses in connection with the transactions contemplated hereby including, without limitation, fees and expenses charged by the Company's agents, attorneys, brokers, accountants and any other third party experts in connection with the implementation of this LOI, regardless of whether the Definitive Agreements are executed and the Transaction described herein is consummated or not.

20. **Governing Law**. This LOI shall be governed by the laws of the [Law Choice Jurisdiction] without giving effect to choice of law principles. The parties have discussed and understand that the ultimate jurisdiction/choice of law for enforcement of the contemplated PA will vary to protect respective rights of the parties and that deal terms customary to that jurisdiction will apply to the Transaction.

21. **Counterparts**. This LOI may be executed in one or more counterparts (including by facsimile, PDF, or other electronic delivery) which, when taken together, shall represent a fully executed LOI.

22. **Public Announcement**. The parties mutually agree that a press release or any other public announcement shall be made regarding the Transaction contemplated under this LOI only upon the closing of the Transaction contemplated herein and only to include non-confidential information. Any such announcement shall be made either by Buyer or jointly by Buyer and Seller unless the parties mutually agree otherwise.

23. **Non-Binding Effect**. This LOI is meant to be an expression of Buyer's interest to make an investment in the Company generally on the terms outlined above and should not be considered an offer, an agreement of purchase and sale or other binding

commitment. Neither party is obligated to enter into or perform any agreement regarding our proposed investment unless and until definitive agreements are executed and, in such event, only to the extent set forth in any such agreements. Notwithstanding anything in this LOI to the contrary, the parties intend that (a) the provisions in sections 12, 15 and 18 of this LOI be enforceable and binding and that the rights and obligations contained in such paragraphs will inure to the benefit of the parties' successors and assignors and (b) other than as provided in subclause (a), no other provision in this LOI is intended to create a binding obligation on any party.

24. **Good Faith Negotiations**. Both parties agree to act honestly and diligently to enter into "good faith" negotiations and work to develop and execute the Definitive Agreements and achieve a successful Closing.

25. **Currency**. All mentions of money or the usage of the "$" icon shall be known as referring to the US Dollar.

26. **Severability**. In case any provision or wording in this LOI shall be held invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

27. **Expiration and Termination**. This LOI will expire at [5:00 pm PST] on [Expiration Date], unless executed by the Company and delivered to Buyer prior to that time or unless extended in writing by the mutual agreement of the Parties hereto. Once executed, this LOI can also be terminated by either party with cause upon 15 days written notice to the other party with any opportunity to cure the reason for termination to be agreed upon by the parties at the time notice of termination is given.

28. **Transaction Team**. The key Buyer team members listed below are dedicated to seeing this transaction through to an expeditious signing and closing. Please feel free to contact any member of the team with questions regarding this LOI.

    a. [Team member name and contact info #1]

b. [Team member name and contact info #2]

c. [Team member name and contact info #3]

d. …

Should the terms described in this LOI be acceptable to Seller, please sign in the acknowledgment section below and return by email. We look forward to working with you to complete this transaction as expeditiously as possible.

Sincerely,

____

[Buyer POC Name], [POC Title]
[Buyer Company Name]

UNDERSTOOD, ACCEPTED AND AGREED:

____

[Seller POC Name], [POC Title]
[Seller Company Name]

DATED: ______________________________

List of Creative Finance Methods

NOTE that the items marked with an asterisk (*) result in your not owning as much of your own company – you basically sell off a portion in order to raise the funds. If you sell off more of your company than you grow through acquisition, you actually end up going backwards, so be very careful about using them. Always have your accounting and financial and tax folks do the calculations before using ANY of these methods for financing a business acquisition.

Fund Raising

1. **Cash Financing**: Using available cash reserves to fund the acquisition.
2. **Private Equity***: Selling a stake in the business to a private equity firm.
3. **Venture Capital***: For high-growth potential businesses, venture capital can be a source of funding.
4. **Angel Investors***: High net worth individuals who provide capital for a business start-up, usually in exchange for convertible debt or ownership equity.
5. **Crowdfunding**: Raising small amounts of money from a large number of people, typically via the Internet. Note that this is NON-equity crowdfunding, which means you may be giving something else away in order to raise the money: swag, services, free or discounted products, etc.
6. **Equity Crowdfunding***: Raising capital through the sale of equity stakes online.

7. **Direct Public Offering (DPO)***: Offering equity (stock for a corporation or membership units for an LLC) directly to the public to raise capital.

Debt Financing

8. **Seller Financing**: The seller provides a loan to the buyer, which is paid back over time.
9. **Bank Loan**: Securing a traditional loan from a banking institution.
10. **SBA Loan**: Utilizing Small Business Administration loans designed for SMBs.
11. **Asset-Based Lending**: Loans based on the assets of the business, such as inventory or receivables.
12. **Mezzanine Financing**: A hybrid of debt and equity financing that gives the lender the right to convert to an equity interest in case of default.
13. **Earnouts**: A portion of the purchase price is paid based on the performance of the business post-acquisition.
14. **Vendor Take-Back Mortgage**: The seller takes a note for part of the purchase price secured by the assets being sold.
15. **Royalty Financing**: The acquirer pays a percentage of revenue over time.
16. **Bridge Loans**: Short-term loans to bridge the gap until long-term financing is secured.
17. **Bond Issuance**: Issuing corporate bonds to raise capital.

18. **Leaseback Arrangements**: Selling an asset and leasing it back for a long-term.
19. **Promissory Notes**: A written promise to pay a specified amount of money at a certain time or on demand.
20. **Non-Recourse Loans**: Loans where the lender is only entitled to repayment from the profits of the project the loan is funding, not from other assets of the borrower.
21. **Recourse Loans**: The lender can claim the borrower's assets if the borrower fails to repay the loan.
22. **Revolving Credit Facilities**: A credit line that can be used, paid back, and used again.
23. **Factoring**: Selling accounts receivables at a discount to a third party.
24. **Purchase Order Financing**: Obtaining advanced financing based on purchase orders from customers.
25. **Inventory Financing**: Using the inventory as collateral for a loan.
26. **Real Estate Mortgage**: Taking out a mortgage on real estate property.
27. **Equipment Financing**: Loans specifically for the purchase of equipment where the equipment itself often serves as collateral.
28. **Balloon Loans**: Loans that have large, one-time payments at the end of the term.

29. **Deferred Payment Loans**: Loans which offer a period during which no payments are required.

30. **Syndicated Loans**: Loans provided by a group of lenders and administered by one or several commercial banks or investment banks.

31. **Government Grants**: Funds provided by government bodies for specific projects or expansions.

32. **Economic Development Incentives**: Financial incentives provided by government entities to support business expansion.

33. **Export Credit Agencies (ECA) Financing**: Government or quasi-governmental institutions that provide loans, loan guarantees, or insurance to encourage export activities.

34. **Insurance-Backed Financing**: Using insurance policies as collateral for a loan.

Equity Financing

35. **Preferred Equity***: A class of ownership that has a higher claim on assets and earnings than common stock.

36. **Convertible Notes**: Debt that can be converted into equity at a later date. Note that convertible notes may or may not automatically convert depending upon the specific terms of the note. Also note that investors in convertible notes may or may not want equity. If you want to be able to pay the note off rather than giving away equity, make sure you are talking to the right type of investors and be sure your attorney puts the note together with that in mind.

37. **Capital Raising through IPO***: Going public to raise equity capital.

38. **Employee Stock Ownership Plan (ESOP)***: Financing through the sale of stock to a company's employees. Note that although this method gives stock away to your employees, the final result may be much more favorable in the end. Not only can you control the amount of equity that is placed into an ESOP, but when you eventually exit, your employees get some of the benefit of the sale as well.

39. **Partial Executive Buy-Out*:** When some of the key executives of the company invest money directly into the company (potentially from their retirement or 401K savings) in order to get a share (or a greater share) of the exit price for the expanded business. This also has the effect of incentivizing your key executives to go all-in on expanding by acquisition because they will share in the success they help deliver.

40. **Special Purpose Acquisition Companies (SPACs)***: Companies created specifically to pool funds in order to finance a merger or acquisition opportunity. Note that these have fallen out of favor due to changes in SEC rules. They also involve a change of ownership. SPACs are more likely to be an exit method than a financing method, but they are still worth mentioning here.

41. **Pension Fund Investment***: Direct investment from pension funds.

42. **Family Offices***: Private wealth management advisory firms that serve ultra-high-net-worth individuals.

Other Financing Techniques

43. **Joint Ventures**: Sharing the costs and benefits of the acquisition with another company. Note that these can be complicated and take attention away from acquisitions and integrations. That said, if a Joint Venture is used as a bridge to an eventual buy-out of all or part of your JV partner business(es), then it could be a useful expansion technique.

44. **Strategic Partnerships**: Partnering with another business that may also finance part of the acquisition. Also add complexity, but if they are entered into with the goal of jointly financing an acquisition, then doing a partnership to get the capital to make an acquisition could be a useful tactic to consider.

45. **Off-Balance Sheet Financing**: Using methods like operating leases to keep debt off the company's balance sheet. This is something that is primarily done to improve your chances of getting other debt financing. It carries with it some risk and should be thoroughly discussed with your financial advisors before you proceed.

46. **Sale-Leaseback of Intellectual Property**: Selling intellectual property and leasing it back.

47. **Sale-Leaseback of Real Property**: Selling real estate to raise capital and leasing it back.

48. **Microloans**: Small, short-term loans offered by individuals or SME-specific lenders.

About The Author

Ed Gehres, Jr. is not just an author; he's a seasoned navigator in the complex business world, boasting over 25 years of experience as both a visionary business executive and a sharp-minded attorney. At the forefront of his own business advisory and law firm and as a senior mergers and acquisitions (M&A) advisor, Ed blends deep industry knowledge with a strategic approach, making him a formidable figure in the business landscape. His career is a mosaic of influential roles across diverse sectors, including technology, healthcare, and finance, where he's engaged with a spectrum of companies, from vibrant startups to highly recognizable Fortune 10 leaders.

Ed's prowess in mergers and acquisitions is particularly remarkable. He's been a critical contributor behind multiple M&A transactions, skillfully providing management and expertise for deals ranging from around $1 million to $1 billion-plus. His involvement spans the full M&A cycle, from strategic planning and deal structuring to the intricate processes of due diligence, closing, and integration – a multifaceted experience that sets him apart from his peers. This dual expertise as an executive and attorney has positioned him as a key player in shaping billion-dollar business landscapes.

Beyond his corporate achievements, Ed is a champion of operational integration and technological innovation. His notable success in merging and streamlining operations across multiple companies underlines his ability to enhance business efficiency and performance. His flair for tech-driven solutions is evident in his implementation of advanced systems and the development of custom applications, showcasing his adaptability and forward-thinking mindset.

Central to Ed's ethos is his dedication to empowering small and medium-sized business (SMB) owners. Drawing from his extensive hands-on experience, he's committed to demystifying the complexities of business operations for SMBs. His impact and reputation in the business community are reflected in the glowing endorsements on his LinkedIn profile.[6]

In ***Acquire Before You Exit***, Ed distills his wealth of experience into a compelling narrative, offering readers a practical guide to leveraging mergers and acquisitions for strategic growth and maximizing exit prices. This book is not just a collection of insights; it's a roadmap for business owners to navigate the challenges and opportunities of the M&A landscape, inspired by real-world scenarios and Ed's hands-on approach to business growth and transformation. It's an essential read for anyone looking to elevate their business to new heights and prepare for a successful exit.

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[6] https://www.linkedin.com/in/egehres.