

PRELIMINARY DUE DILIGENCE CHECKLIST
Transaction Not Involving Public Issuance of Securities

1. Charter documents, originals and as amended, of company and all subsidiaries that meet either 10% asset or 10% income test (“significant subsidiaries”; together with the company, the “companies”).
2. Lists of where companies are doing business and where they are licensed to do business.
3. Current bylaws of companies and any amendments to bylaws of companies.¹
4. Minutes of boards and board committees of companies. * Look for:
 - a. form and regularity;
 - b. approvals for mergers, consolidations, major transactions, issuance of stock and organization of significant subsidiaries;
 - c. discussion of significant non-public events such as threatened or actual litigation, or financial problems.
5. Companies’ SEC filings, proxies, and communications with shareholders.
6. Companies’ stock books and shareholder lists. Look for:
 - a. cancellation of shares;
 - b. number outstanding;
 - c. discrepancies among books, lists and other information;
 - d. evidence that transfer and other taxes have been paid.
7. Form of stock certificates. Look for restrictive legends.
8. NYSE, CFTC, NASD and other exchange filings and applications. *
9. Private placement memoranda/144A Offering Circular.²
10. Permits and licenses necessary to the companies’ business.
11. Information regarding companies’ business that implicates national security.

¹ *For last five years.

² *Obtain form of agreement.

12. Debt documents, including guarantees. Look for:
 - a. events of default;
 - b. covenants;
 - c. after acquired property clauses;
 - d. due on sale clauses.
13. Correspondence between lenders, accountants, companies' counsel and companies, including audit letters and reports.
14. Intercorporate debt and other intercorporate relationships.
15. Joint ventures and partnerships.
16. Property:
 - a. description;
 - b. location;
 - c. surveys and appraisals;
 - d. title insurance and abstracts;
 - e. liens and mortgages;
 - f. assessments;
 - g. leases;
 - h. zoning;
 - i. lists of machinery, computers, data systems (including telephones).
17. Major contracts, including:
 - a. installment;
 - b. supply;
 - c. requirement;
 - d. government;
 - e. licensing;
 - f. franchising;
 - g. private label;
18. regarding companies' securities or voting thereof;
 - a. rental;³
 - b. warranty;*
 - c. service;*
 - d. distribution ^{*4};

³ *Obtain copy of document.

- e. sale and leaseback;
 - f. conditional sales;
 - g. insurance, including litigation and environmental*;
 - h. collective bargaining;
 - i. agreements** for merger, consolidation, sale of assets*;
 - j. with board, officers, employees, including:
 - 1. loans;
 - 2. noncompetition;
 - 3. indemnity;
 - 4. bonus;
 - 5. profitsharing
 - 6. pension;
 - 7. life/medical/dental/worker's compensation insurance**;
 - 8. severance**;
 - 9. employee handbooks.
19. Management chart* and personnel files on top executives.
20. Schedule of all intellectual property, including:
 - a. patents;
 - b. trademarks;
 - c. service marks;
 - d. tradenames;
 - e. brands;
 - f. copyrights.
21. Management chart* and personnel files on top executives.
22. Schedule of all litigation, including:
 - a. administrative;
 - b. pending;
 - c. threatened;
 - d. complaints;
 - e. consent decrees;
 - f. judgments;
 - g. correspondence with government agencies;
 - h. correspondence with counsel.
23. Financial or marketing analyses⁵.
24. Credit reports* .

⁴ ** Obtain form of agreement.

⁵ *For last five years.

25. Analysts' reports* .
26. Press Releases* .
27. Newspaper and magazine articles; check databases* .
28. Tax returns* .
29. Other material documents.

DISCLAIMER: The foregoing checklist is merely a summary of items which should be reviewed during due diligence and is not intended to be a comprehensive list of issues that may arise in a particular transaction. This checklist provides general information about due diligence for transactions not involving public issuance of securities, and is provided with the understanding that Goodall & Davison, P.C. is not rendering legal advice or other professional services. Information contained herein should not be acted upon without professional advice.