# Rough Lawyer Notes — M&A Deal (Detailed)

Date: 23 May 2025

Client: ABC Corporation (Buyer)

Target: XYZ Limited

## 1. Parties Involved

- Acquiring Party:

Name: ABC Corporation

Address: 123 Business Park, Wilmington, Delaware, 19801, USA

Contact Person: John Smith, CEO

Legal Structure: Delaware Corporation

Jurisdiction of Incorporation: Delaware, USA

Counsel: Law Firm A (Attorney: Mary Johnson)

- Target Company:

Name: XYZ Limited

Registered Office: 456 Market Street, San Francisco, California, 94105, USA

Date of Incorporation: 12 March 2010

Directors: Alice Chen (CEO), Robert Lin (CFO)

Major Shareholders: Alice Chen (40%), Robert Lin (35%), Venture Capital Fund (25%)

Industry: SaaS (Software as a Service) - Customer Relationship Management Software

Contact Person: Sarah Lee, COO

Counsel: Law Firm B (Attorney: Michael Brown)

## 2. Deal Overview

- Type of Transaction:

☐ Asset Purchase

☑ Stock Purchase (100% shares)

☐ Merger

☐ Joint Venture

- Deal Value:

Estimated Purchase Price: $50,000,000 USD

Payment Method:

- $30,000,000 in cash at closing

- $20,000,000 in buyer stock issuance (restricted shares)

- Consideration Terms:

- Earn-out provision possible (up to $5,000,000 based on 12-month post-closing revenue targets)

- Working Capital Adjustment: Target normalized working capital to be determined after due diligence

- Financing Source:

- $40,000,000 bank loan approved, pending final terms

- Remaining $10,000,000 from internal reserves

## 3. Timeline & Milestones

- NDA Signed: 15 May 2025

- Letter of Intent (LOI) Target: 31 May 2025

- Due Diligence Period: 1 June – 30 June 2025

- Draft SPA/Share Purchase Agreement Target: 15 July 2025

- Regulatory Approvals (if applicable): Antitrust filing by 20 June 2025

- Closing Date Target: 31 July 2025

## 4. Confidentiality Agreement (NDA)

- NDA executed on 15 May 2025

- Duration: 2 years from signing

- Scope: Protects all non-public information, extends to affiliates and advisors

- Non-solicitation of employees for 12 months post-close

- Governing law: Delaware

## 5. Due Diligence Requirements

Corporate & Governance

- Incorporation documents, bylaws, shareholder agreements

- Board minutes for past 2 years

- Material contracts including partnership and reseller agreements

Financials

- Audited financial statements (last 3 years)

- Interim financial statements for current year

- Tax returns and correspondence for last 5 years

- Accounts receivable aging reports

Intellectual Property

- List of all patents, trademarks, copyrights owned or licensed

- Software licenses and third-party agreements

- IP assignments from employees and contractors

Employment & Benefits

- Employee contracts for all key staff

- Benefits and pension plans

- Pending or threatened labor disputes

Legal & Litigation

- Summary of all pending or threatened litigation

- Compliance with applicable laws and regulations

Real Estate

- Lease agreements for 2 office locations in San Francisco and Seattle

- Any property owned by target

Regulatory Compliance

- Licenses and permits relevant to SaaS operations

- Data privacy policies (GDPR, CCPA compliance)

Insurance

- Current insurance policies and claims history

## 6. Key Deal Points to Negotiate

- Purchase price adjustments based on working capital and net debt at closing

- Structure of earn-out: metrics, timeframe, caps

- Representations and warranties from seller: accuracy of financials, IP ownership, no undisclosed liabilities

- Indemnification: caps at $5 million, basket at $250,000, survival 18 months

- Covenants pre- and post-closing including non-compete, confidentiality

- Conditions precedent: financing, no material adverse change, regulatory approval

- Termination fees and break-up penalties (2% of deal value if buyer terminates for convenience)

- Dispute resolution: Arbitration in Delaware under AAA rules

## 7. Regulatory and Compliance Issues

- Antitrust filings in US (Hart-Scott-Rodino Act)

- No foreign investment restrictions

- Review of SaaS data protection compliance under GDPR and CCPA

- Industry-specific licenses are valid and transferable

## 8. Risks / Red Flags

- IP ownership unclear for some contractor-developed modules

- Potential turnover risk of CTO and other tech leaders post-closing

- Pending customer contract renewal negotiations with major clients

- Tax audits ongoing in one jurisdiction (state tax authority)

- Environmental risk minimal (no owned properties)

## 9. Client Instructions and Priorities

- Close deal within 2 months, if possible

- Minimize escrow and indemnity risk exposure

- Protect key employees through retention agreements

- Prefer Delaware law for consistency with buyer’s jurisdiction

- Avoid protracted litigation risk post-closing

## 10. Documents to Prepare

- NDA (complete)

- LOI (draft for client review)

- SPA/Share Purchase Agreement

- Disclosure schedules

- Employment agreements for key staff post-close

- Regulatory filings and notices

- Closing checklist and memorandum

## 11. Next Steps

- Finalize LOI draft and send to client for approval by 27 May

- Request financial and corporate documents for initial diligence by 1 June

- Schedule call with target legal counsel for negotiation parameters week of 29 May

- Begin review of key contracts and IP documentation

- Coordinate with client’s financing team for loan finalization

## 12. Additional Notes

- Buyer interested in a clean-room data room setup for diligence

- Client requests bi-weekly updates on due diligence progress

- Discussed inclusion of dispute resolution clause in LOI for quick escalation if needed