



## Negotiation Leverage: “approach each negotiation with a well conceived game plan\*”

### KNOWLEDGE

Create and maintain document templates and clause libraries-- model legal documents containing standard and alternative provisions.

**Situation:** A software development company for which you have done some work is in negotiation for the sale of its business to a large multi-national company. The company has sent you an RFP. You decide to make a pitch to the seller’s executives to retain your firm. You are aware that other law firms seek to represent the software company and that the buyer is represented by a well-known New York law firm.

**Pre-kiiac Approach:** In the past, you worked with your firm’s marketing personnel to put together information about your firm and its experience representing companies in the sale of their businesses.

### INFORMATION

Collect, organize your precedent and share your best practices through an integrated wiki.

**kiiac Solution:** This is, however, a significant potential representation and you wish to distinguish yourselves from your competitors. You plan to analyze the last 20 merger agreements drafted by the New York law firm to determine a negotiation strategy for your potential client’s best advantage; you will present this strategy in an interview with the software company’s executives.

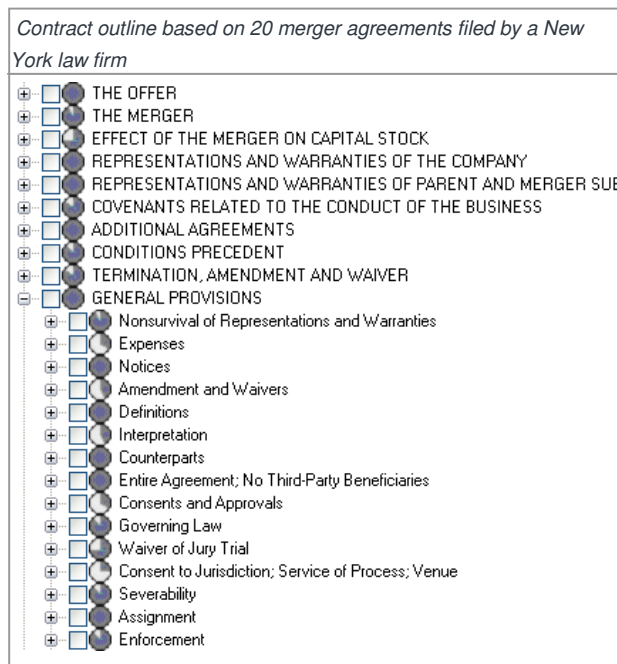
### INNOVATION

Your documents can now be compared to your firm’s standards and industry norms - how will your documents stack up?

1 Collect 20 recent merger agreements drafted by the New York firm. You can get these documents from a variety of public and subscription sources, including the SEC’s web site: EDGAR.

2 Run the documents through kiiac’s Template Generator. This will create an outline and clause library based on the documents. The circle icon indicates how frequently each clause appears in the outline composed of the 20 agreements. For example, all the documents have a “General Provisions” section, while 75% have a clause waiving jury trials.

3 You may edit and adjust the template to group similar clauses together by dragging and dropping the clause captions in the outline.



\* *Smart Negotiating: How to Make Good Deals in the Real World* by James C. Freund

For more information please visit us on the Web at: [www.kiiac.com](http://www.kiiac.com) or call (312) 720-9626



## AUTOMATE

Create drafting templates and clause libraries from your own documents

## DRAFT

Refine the Reference Standard; select default and alternative clauses; and deploy the Reference Standard to a document assembly module

## BENCHMARK

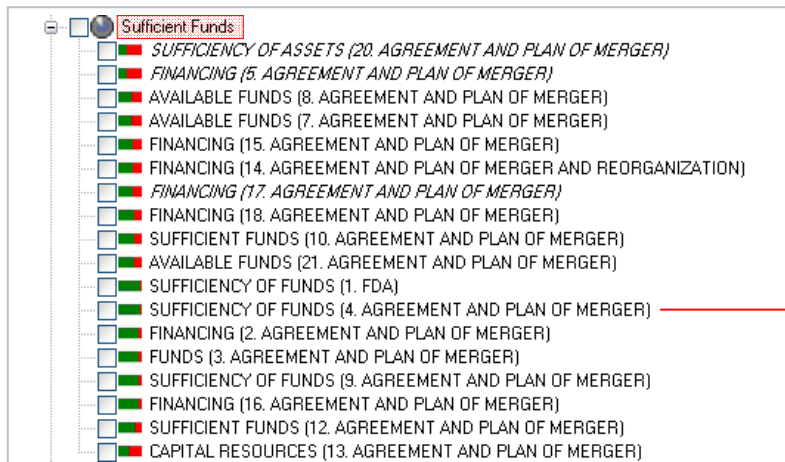
Use kiiac's Reference Standards 'as-is' to benchmark a document, quickly identify divergent clauses, and find alternative clause language.

## AUDIT

Feed final documents back into the system to audit compliance and capture improvements to the templates and clause libraries

4 You can browse and search the analysis of the Merger Agreements to determine points of negotiation leverage. For example, you review the documents to determine if the New York firm has ever agreed to allow a buyer to hold sufficient funds only at the close of the deal. In order to minimize the cost of holding capital in liquid form, you seek to advise the potential client to agree to only hold the funds upon the close of the transaction.

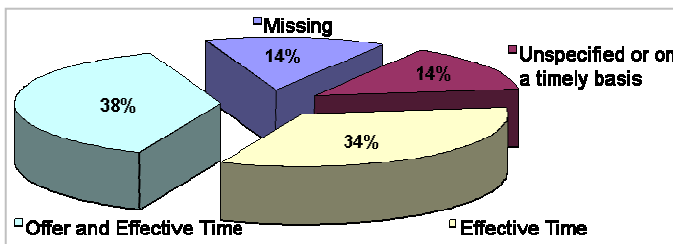
5 Browse the Buyers' Reps and view the "Sufficiency of Funds" clauses that kiiac has automatically found. They are grouped by similarity with the green-red icon displaying the degree of consistency to the standard clause language.



6 kiiac reveals the standard language for the clause which requires the buyer to hold sufficient funds at the time of the agreement and close of the transaction::

**Sufficiency of Funds.** Parent has sufficient funds to consummate the Offer and the Merger on the terms contemplated by this Agreement, and, at the Offer Closing and the Effective Time, Parent will have available all of the funds necessary for the acquisition of all shares of Company Common Stock pursuant to the Offer and to pay the Merger Consideration, as the case may be.

7 However, a quick analysis of the clauses demonstrates that the firm often agrees to alternative business terms.



In 38% of the deals, the firm has required the buyer to hold sufficient funds at both the time of the agreement and the consummation of the merger. But, in 34% of the deals it has, in fact, required the buyer to hold sufficient funds only at the close of the transaction.

8 In a similar manner, you can review the documents to determine each point of negotiation leverage that will enable you to secure the best business and legal terms for your potential client.

Test drive kiiac at [www.kiiac.com](http://www.kiiac.com)