

DUE DILIGENCE AND DATA ROOMS

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Morse for Scroobious Founders*

This article was created by [Elizabeth Resteghini](#) from [Morse](#) for [Scroobious](#) founders.

Scroobious is increasing diversity in the startup ecosystem by providing the education, tools, and community founders need to create investor-ready pitch material and a platform to help investors easily find those founders. For startup founders who have a story to tell but need help telling it, [The Pitch it Plan™](#), or PiP, is a virtual platform that helps you get your compelling story into an investor-ready format. Unlike googling for hours or paying thousands for a pitch coach, PiP is affordable and approachable through online education and personalized feedback from a human who understands the investor mindset. Our framework has [been published](#), vetted by investors, and has helped founders score meetings, raise rounds, and get into prestigious accelerators. Founders can [sign up here](#) or [book an intro call](#) to chat.

Combining the best practices of traditional law firms with an inventive approach, Morse's founders created a solid basis for a more modern practice of law. We offer our clients responsive and reliable service, sound and insightful business advice, and reasonable fees. We're dedicated to developing real partnerships with our clients, addressing each client's specific challenges, and delivering effective results tailored to each client's needs. While we have long enjoyed a reputation for special competency in technology ventures, we represent clients of all sizes and industries in all stages of the business life cycle. Our clients include startups, emerging growth entities, established family businesses, and Fortune 1000 companies. Our exceptional business model affords clients access to highly experienced counsel in the areas of M&A, Venture Capital, IP, Employment, Taxation, Privacy, and Litigation.



Companies that are in the early stages of fundraising may frequently hear the terms “due diligence” and “data rooms,” but may have some questions about the meaning of those terms. You asked us your top questions about these topics, and we answered.

What does due diligence mean?

When an investor says that they want to conduct due diligence on your company, it means that the investor wants to review your company’s books and records in detail to evaluate the business and to determine whether they want to invest in your company. Typically, an investor will provide the company with a diligence request list, which is a detailed list of items they want to review. Companies will then respond by answering the questions on the list and providing copies of the requested documentation. To help manage and organize the documentation in this process, companies will usually upload requested documents to an online data room.

When do I need a data room?

Maintaining a data room (an online platform that will house all your documents electronically) is a good idea at any stage and on an ongoing basis because you can keep your documents organized within it and allow access to interested investors. However, having a data room when you are pitching to investors and ready to start fundraising is when you need one.

What do you put in a data room? Does it differ by stage (e.g., Series Seed, Series A)?

As noted above, investors will typically provide you with a detailed diligence request list of the documents they want you to upload to a data room for their review. While the specific lists may vary, typical requested items include:

- all corporate records (including certificate of incorporation and bylaws)
- capitalization records
- board and stockholder consents and meeting minutes
- any stock subscription agreements or other agreements relating to the sale or purchase of securities
- equity financing documents
- convertible note or SAFE financing documents
- warrants
- offer letters
- employee agreements
- independent contractor agreements
- benefit plans
- insurance documents
- intellectual property documentation such as license agreements
- a list of all the company’s patents, copyrights, trademarks, and domain names
- a list of all copyleft or opensource used or incorporated into the company’s intellectual property

- assignments of intellectual property by workers in favor of the company
- voting agreements
- shareholders' agreements
- financial statements
- documentation regarding any pending or threatened litigation
- regulatory documentation related to your company
- company policies and handbooks
- real property leases
- equipment leases
- debt documents
- key customer/vendor/distributor/manufacturer contracts
- joint venture and partnership agreements

The diligence request list may also include certain items that are specific to your line of business, like requests for documentation regarding FDA approvals. The diligence request lists can vary based upon the stage of the company, the investor, how well the investor might be familiar with your company, or a number of other reasons. However, the list provided above includes some of the more typical items that we see requested. If you are concerned about keeping confidential certain customer names, sensitive data in agreements or highly confidential intellectual property, you could redact certain information prior to uploading it to the data room.

Should I ask an investor to sign a non-disclosure agreement before opening my data room?

Typically, professional investors (especially venture capital investors) will refuse to sign non-disclosure agreements because they examine and/or invest in a large number of companies, and it could result in unintended conflicts for them down the road. However, this request comes up from time to time in certain scenarios, such as when a company has highly confidential intellectual property they want to protect.

How frequently should I update my data room?

Updating your data room frequently is best practice. In addition, each time you prepare for a new financing you should make sure your data room is updated, and during the financing process you should continue to update your data room as frequently as possible so that your investors have all of the information they need to evaluate your company prior to making an investment.

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