

Due Diligence Checklist

In connection with the proposed investment by xxxxxxxxxxxxxxxxxxxx in "Company", hereinafter referred to as the "Company", please answer the following questions in writing or be prepared to answer them in a due diligence meeting. Also, where appropriate, please forward the items listed below to xxxxxxxxxxxxxxxxxxxx. so that we may complete our due diligence. All information will be held in complete confidence.

1. Corporate Records

- A. Charter documents or Articles of Incorporation as amended to date.
- B. By-laws as amended to date.
- C. Minutes of meetings of the Board of Directors (and all written actions in lieu of meetings), all committees thereof, and related materials.
- D. List of states in which the Company and any of its subsidiaries are qualified to do business as a foreign corporation.
- E. Copies of all existing contractual provisions, preemptive rights, options, warrants, rights, calls, commitments, conversion plans, or other agreements providing for the issuance of any class of stock.
- F. List of shareholders, indicating number of shares held.
- G. List of option holders, indicating number of options held with average strike price.
- H. Copies of standard option and option plan documentation.
- I. List of all subsidiaries, identifying the name, jurisdiction of incorporation, and ownership of same.
- J. Copies of any agreements relating to these subsidiaries.
- K. List of all corporate obligations to purchase or subscribe, advance or loan monies to, or make any investment in any other corporation, joint venture, partnership or other entity. Copies of any agreements related thereto.
- L. Copies of any agreements or letters prohibiting or restricting the sale of stock or securities.
- M. Describe the history of the Company from founding to the present date.

2. References

- A. Customer or end-user references (minimum 6).
- B. Reseller, Distributor, or Value Added Dealer references (all relationships that sell for the company).
- C. Industry references, industry experts, people who are familiar with the marketplace, etc.
- D. Bank references.
- E. Accountant references.
- F. Legal references.
- G. Supplier references.

3. Financial Statements

- A. Annual financial statements (P&L, Balance Sheet, Cash Flow) for the past 5 years.
- B. Quarterly financial statements for the past two years and monthly financial statements for the past year.
- C. Any audited or reviewed statements and the name and telephone number of the audit partner and manager who worked on the account.
- D. Management letters, if any, which have been prepared by auditors.
- E. A schedule of all fixed assets.
- F. An aging of accounts receivable (A/R) by account and categorized as: current, 30 days, 60, 90, 120, written-off.
- G. The last three years of A/R loss experience, and the company's policy on reserving for A/R losses.
- H. A detailed, line item-by line item break-down of the income statement and balance sheet for the last 12 months, preferable in comparison to the latest twelve month operating plan.
- I. Historical A/R and inventory turn data.
- J. History and prior financings or financial sources.
- K. Financial operating plan. Projections with all assumptions.
- L. Copies of prior operating plans for current year.

4. Accounting Practices and Policies

- A. Revenue recognition policy. Sales return policy.
- B. Policy on accruals for vacations, audit expenses, A/R reserves, inventory reserves, other reserves.

- C. Policy on inventory valuation.
- D. Credit policy.
- E. Capitalization of any expenses, particularly development of software (FASB 86).
- F. Description of any other deferred revenue or expenses or accrued revenues or expenses.

5. Revenue/Customers/Accounts

- A. A description of how the products are marketed or how the service is provided. Does the Company price off of the price list? Are discounts given? How often are prices negotiated? Is work ever bid for? If prices are negotiated, who has the authority to negotiate on behalf of the Company?
- B. A list of the ten largest customers since inception, indicating dollar volume.
- C. A complete list of all customers with annual volume indicated.
- D. A list of all independent distributors and copies of all distribution agreements.
- E. Backlog, if appropriate.
- F. A copy of the Company's standard credit policy.
- G. Copies of any agreements or contracts which govern the relationship with customers.
- H. Number of new customers acquired each of the last three years.
- I. Number of customers lost in each of the last three years.
- J. Any service agreements with the customer base.

6. Property, Plant and Equipment

- A. Summary description of all real estate owned or leased by the Company.
- B. Liens and encumbrances on all real estate owned.
- C. Options or agreements on or for any real property.
- D. Copies of all leases and subleases pertaining to real estate.
- E. Copies of any policies of title insurance relating to such real estate.
- F. A complete schedule of all property, plant and equipment.
- G. A schedule of all leases related to property, plant and equipment.
- H. An explanation of the Company's depreciation policy.

7. Contracts and Commitments

- A. A summary description and copy of all OEM agreements, reseller contracts, general contracts, other agreements, or other commitments which are material to the business.
- B. A copy of any deferred sales contracts or agreements to provide services in the future.
- C. Any verbal or oral commitments which have been made by the officers of the Company.
- D. A list of all suppliers to the Company together with copies of any purchasing agreements.

8. Agency

- A. Copies of any agreements with sales agents, distributors, resellers, or individuals who have within the past three years provided services to the Company. Any agreements where the Company has been an agent, distributor, or reseller for another firm or product.

9. Inventory

- A. Schedule of inventory type, stage, amount, condition and location as of a recent date. Is any of the inventory on consignment? Is the inventory pledged as collateral for any obligation? Does the Company receive price protection or obsolescence protection on the inventory?
- B. What has the Company's returned goods experience been for the past three years?
- C. Description of inventory practices, including:
 - (i) Costing methods.
 - (ii) Frequency and timing of costing methods.
 - (iii) Standards for obsolescence.
 - (iv) Frequency of physical inventory.
 - (v) Other inventory practices.

10. Warranties

- A. Copies of standard sales forms, sales acknowledgment forms, warranties and/or the terms of sale.
- B. Description of any damages paid to any third party since inception resulting from an alleged breach of warranty or alleged product problem or defect.

11. Officers

- A. Resumes of all officers of the Company.
- B. Employment agreements and contracts and/or offer letters for all officer- level employees.
- C. Details of any oral promises, agreements, commitments or pledges to compensate any employee or officer in any way in the future, including promises of stock or ownership in the Company.
- D. Documentation for any loans or borrowing by any officer from the Company.
- E. Schedule of all material transactions between the Company's officers, or any entity in which an officer has an economic interest, and the Company.
- F. Have any of the officers ever been involved in a personal or corporate bankruptcy or been charged with, or convicted of, any type of fraud or a felony? Have any of the officers ever been charged or convicted of possession of an illegal substance, substance abuse, or operating a motor vehicle while intoxicated?
- G. Do any of the officers have significant personal debt obligations apart from debt associated with education, primary housing, automobiles, or standard credit card debt? If so, describe.

12. Employees & Organization

- A. An organization chart showing all reporting relationships.
- B. A schedule of all employees showing latest twelve months' salaries, commissions, and bonuses.
- C. Officer-level employee job descriptions.
- D. A complete list of all employees who have ever left the Company or have been fired. Provide current phone numbers.
- E. Description and copies of all existing contracts of employment, collective bargaining agreements, incentive plans, bonus arrangements, and other compensation agreements between the Company and its officers, directors and employees.
- F. Description of any labor disputes or work stoppages since inception, indicating the disposition thereof.
- G. Copy of form of Non-Disclosure agreement obtained from employees.
- H. Copy of form of Non-Compete agreement obtained from employees.
- I. Copy of form of Assignment of Inventions agreement obtained from employees.
- J. A schedule listing of each employee and indicating whether a signed copy of each of the above agreements is on file.
- K. Please describe all pension, employee retirement, bonus, or profit sharing plans which the Company offers.

- L. Please provide a copy of all employee handbooks or policies and procedures manuals.
- M. Please describe the nature and extents of medical and dental care benefits.
- N. Are any of the Company's employees unionized? Provide copies of union agreements.
- O. List all employment-related lawsuits which have been filed or threatened in the last five years.
- P. Has the Company been charged by any government agency with any employment related violation? If so, what?

13. Intellectual Property

- A. A list of each of the software programs or products of the Company, a description of the functions and features of each, and a chronology of their respective development. Authorship of ownership of each software product and related technology. If ownership resides with a third party, then explain the royalty arrangement and the provisions for buy-out, if any. Also discuss the arrangement regarding product enhancements and upgrades.
- B. All records and documentation maintained by the Company documenting the development, authorship, or ownership of the software programs and related technology. A list of all public domain materials incorporate in the software programs. A list of all third-party materials incorporated into the software programs.
- C. A list of all agreements with third parties, whether now in effect or terminated, for the design, development, programming, enhancement, or maintenance of the software programs. To the extent third parties have designed, developed, programmed, enhanced, or maintained such software programs without having executed any agreement, a list of all such third parties and a description of the work performed and the period during which such work was performed by such party.
- D. A description of all policies followed by the Company to protect the copyright and trade secret rights in its software programs and related technology, including any legends used, how they are used, and whether they are uniformly used, and the manner in which the software is physically protected (regardless of the media on which it is stored).
- E. A description of the instances in which source code relating to the software programs of the Company has been disclosed to persons outside the organization of the Company, and any agreements involving disclosure of source code relating to the software programs (e.g., source code escrow agreements).
- F. A list of all licenses, franchises, royalty agreements, marketing agreements, distributorships, sales representative agreements, or similar commitments or arrangements relating to the software programs or related technology granted to third parties by the Company or by any third party to the Company.
- G. Agreements, options, or other commitments giving anyone rights to acquire any right, title, or interest in the software programs or related technology to the Company.
- H. A list of all trademarks and trade names owned or used in the business of the Company, showing the registration number, date of registration, registrant, and a copy of the certification of registration, in any. Samples of any recent or current advertisements or promotional literature relating to the software programs.
- I. A list of all patents used in the business of, or owned by, the Company.
- J. Copyright registrations (if any) issued or pending relating to the software programs.

14. Litigation

- A. Description an copies of any outstanding order, injunction, decree, or judgment of any court or any other administrative or regulatory body or any arbitration tribunal binding upon the Company or any of its property.
- B. Description and current status of all actions, suits, investigations, or proceeding by or before any courts, arbitration tribunal, or administrative or regulatory body to which the Company is a party.
- C. Description and status of any threatened or possible suits based upon the best knowledge of the Company and its officers.
- D. Auditors' inquire letters to attorneys retained by the Company concerning litigation and attorneys' responses thereto since inception.
- E. A chronological history of all suits, actions, or threatened actions which have led to settlements either in or out of court with a description of each dispute and the resolution of the same.

15. Insurance

- A. Schedule of all insurance presently carried by the Company indicating the carriers, risks insured against, amounts of self-insurance or coinsurance, the persons or entities or properties insured, and the amount of the insurance.
- B. Description of any pending claims.

16. Regulatory Compliance

- A. List of all regulatory permits and licenses possessed by the Company or any subsidiary and the date of expiration of each.
- B. Description of any known noncompliance with any zoning or building codes, environmental laws or regulations, or occupational safety laws or regulations, and what action the Company has taken or is taking with respect thereto.
- C. All reports to, correspondence with, and notices from Federal, State and Local regulatory and enforcement agencies (including FTC, OSHA, EEOC, EPA, NLRB, Justice, etc.).

17. Financing Agreements

- A. All agreements, memoranda, and offering materials pursuant to which any person has purchased or has the right to purchase securities of the Company.
- B. List and provide copies of all mortgages, indentures, loan agreements, credit facilities, capitalized leases, letter of credit reimbursement agreements, bank loans, or other indebtedness to which the Company is a party.
- C. All correspondence with lending institutions concerning defaults, requests for waivers, extensions, modifications, collateral, and other matters in connection with the loan agreements identified above.

- D. List and provide a copy of all agreements pursuant to which the Company or a subsidiary has guaranteed or provided a surety or letter of credit for the obligations of any person or entity.
- E. Provide a calculation as a recent date indicating compliance with the financial covenants contained in the financing agreements and guarantees referred to above, if any.

18. Taxes

- A. Indicate whether the Company or any subsidiary is or has been included in a consolidated group for tax purposes with any other person or entity, naming such person or entity.
- B. Copies of the Federal and State income tax returns for each of the past three years.
- C. Current status of any Internal Revenue Service or State tax audits.
- D. Describe any tax issue raised by an examination of the Federal or State income tax returns either by a taxing authority or by your outside auditor.

19. Bank Accounts

- A. List of all bank accounts and safe deposit boxes maintained by the Company and the names of all persons authorized to draw thereon or have access thereto.
- B. List of all credit cards and who is authorized to use them.

20. Other

- A. Any other documents or information which, in your judgment, is significant to the Company or its business.

As an officer of "Company", or the "Company", I hereby certify that I have provided the information requested above or truthfully answered the questions presented above; or that where appropriate I have stated that such information is not available. To the best of my knowledge all of the answers presented above are complete, accurate and not misleading.

By: _____

Title: _____

Date: _____