

## **DUE DILIGENCE REQUEST LIST**

Please provide copies of all of the indicated documents or the information requested with respect to the business and any predecessors (collectively, the "Company").

### **1. BASIC CORPORATE DOCUMENTS:**

- a. Charter documents, including Articles and Bylaws and all amendments thereof.
- b. Minutes of all meetings and written consents of directors, committees of directors and shareholders, including copies of any written notices (if given) or waivers thereof.
- c. Other corporate books and records, including stock book and certificates.
- d. List of all cities and states where property is owned or leased or where employees are located, with approximate size, number of employees and services performed at each location.
- e. List of all states in which the Company contemplates undertaking business operations, either directly or through other parties.
- f. List of all states where the Company is qualified to do business.
- g. Certificates of Good Standing for the Company in the relevant jurisdictions in which the assets of the Company are located or operations of the Company are conducted.

### **2. SHAREHOLDER INFORMATION:**

- a. List of all current shareholders, including issuance dates and original issuance price. Such list should include any party who owns securities of the Company or has any rights regarding securities of the Company.
- b. Lists of outstanding options and warrants including date of grant, exercise price, vesting date, number of shares subject to option, and names of option holders.
- c. All formal written communications with shareholders.
- d. All press releases issued by the Company or its subsidiaries, if any.

3. SECURITIES ISSUANCES:

- a. Samples of common and preferred stock certificates, warrants, options, debentures and any other outstanding securities.
- b. Stock option or purchase plans and forms of option or purchase agreements which have been or may be used thereunder.
- c. Any other agreements relating to the sale of securities by the Company, including any private placement memoranda or other offering circulars.
- d. Any agreements and other documentation (including related permits) relating to repurchases, redemptions, exchanges, conversions or similar transactions involving the Company's securities.
- e. Evidence of qualification or exemption under applicable federal and state blue sky laws for issuance or transfer of the Company's securities.
- f. All voting trust, shareholder or other similar agreements covering any portion of the Company's stock.
- g. All agreements containing registration rights or assigning such rights.
- h. All agreements containing preemptive rights or other preferential rights to acquire securities, including rights of first refusal, or assigning such rights.
- i. Documents relating to any conversion, recapitalization, reorganization or significant restructuring of or other extraordinary corporate event of material significance to the Company.

4. CORPORATE FINANCE:

- a. Documents relating to convertible debt financings, if any.
- b. Bank line of credit agreements or any other agreements and indentures relating to the borrowing of money or mortgaging, pledging or otherwise placing a lien on any of the Company's assets, including all security agreements, trust indentures, guarantees, finance leases and financing statements, including any amendments, renewal letters, notices, waivers, etc.

- c. List of all checking, savings and other Company accounts and the parties with signature authority thereon.
  - d. Documents relating to lease financings, if any.
  - e. Other agreements evidencing outstanding loans to, or guaranteed by, the Company.
  - f. All material correspondence with lenders, including all compliance reports submitted by the Company or its accountants.
  - g. Agreements with respect to obligations or liabilities as guarantor, surety, co-signer, endorser, co-maker, indemnitor or otherwise in respect of the obligations of any other person.
  - h. Outstanding letters of credit and performance and other bonds issued by or for the account of the Company.
5. FINANCIAL INFORMATION:
- a. Management letters or special reports by auditors and any responses thereto on internal controls and contingent liabilities (if any) (within the last five years).
  - b. The Company's audited and/or unaudited financial statements, including historical quarterly financial statements (for the last five years).
  - c. A listing and aging of all accounts receivable (including an allowance for doubtful accounts).
  - d. A listing, by customer, of all accounts receivable in excess of \$5,000 written off during the past three years.
  - e. Information on all recent or planned acquisitions, mergers, sales, dispositions or purchases of substantial assets, equity financings and other material transactions outside of the ordinary course of business.
  - f. Information on all reserves and unusual charges to operations during the past five years.
  - g. Schedule of audit adjustments during the past five years.
  - h. A listing of any other adjustments made to inventory of the Company during the last twelve months organized by item of

inventory, showing the amount of each adjustment by item and the reason for the adjustment.

- i. Information on inventory turnover during the past five years.
  - j. List and brief description of all reports used by management on a regular basis (internal and industry).
  - k. Internal budgets and projections prepared during the past five years with respect to the operation of the Company including internal memoranda describing the assumptions used in preparing such budgets and projections.
  - l. The current cost of sale for each product line of the Company and the current gross profit for each product line of the Company. Describe all facts or circumstances known to the Company that might prompt the Company to consider using a higher or lower cost of sale or gross profit for budget or projection purposes.
  - m. A description of the cost accounting methodology and policies used by the Company to establish the Company's standard product costs.
  - n. All reports and management letters from auditors to the Company and management representation letters by the Company to its auditors and stated correspondence during the past five years.
  - o. Information regarding any intercompany transactions involving the Company and any other intercompany accounts which could be liquidated upon the Company's departure from the consolidated group.
  - p. Information regarding intercompany distributions and obligations involving the Company.
6. OPERATIONS:
- a. List of major suppliers showing total and type of purchases from each supplier during the most recently completed and current fiscal years, indication of which are sole sources, and contact names and phone numbers.
  - b. List of contract manufacturers showing total and type of purchases from each contract manufacturer during the most recently completed and current fiscal years.

- c. Copies of purchase and supply contracts and descriptions of their terms including price determination, conditions, special concessions and other material terms.
- d. Description of any toxic chemicals used in production and manner of storage and disposition. Description of any EPA, Toxic Substances Control Act or other investigation or claim.
- e. Form of agreements relating to the sale or lease of equipment.
- f. Standard forms used in connection with sale of Company products, including, without limitation, purchase orders, sales orders and quotations.
- g. Any written description of credit or collection policies.
- h. List of customers by product line during the last five years.
- i. List of top fifteen customers by total dollar during the past fiscal year showing the total dollar amount purchased by each customer.
- j. Any material agreement or group of related agreements with the same party for the sale or purchase of products or services.
- k. Any other material agreement or group of related agreements with the same party continuing over a period of more than six months from the date or dates thereof, not terminable by the Company on 30 days or less notice without penalty.
- l. Any agreement which prohibits the Company from freely engaging in business anywhere in the world.
- m. Description of controls of purchases and regulation of inventory.
- n. Documents creating any express or implied warranty with respect to products manufactured or distributed by the Company.
- o. Agreements or documents concerning indemnification regarding products manufactured and/or sold by the Company, including, but not limited to, agreements or arrangements with distributors and other resellers of the Company's products.

7. SALES AND MARKETING:

- a. Consultants', engineers' or management reports and marketing studies related to broad aspects of the business, operations or future products of the Company.
- b. List of major distributors, resellers or system integrators, showing total and type of sales during the most recently completed and current fiscal years and include copies of any written agreements.
- c. List of OEMs showing total and type of sales during most recently completed and current fiscal years and include copies of any written agreements.
- d. List of major customers, showing total and type of sales during the most recently completed and current fiscal years and geographic location.
- e. Description of sales strategy, copies of any studies of such strategy and description of future changes in strategy.
- f. Any agency, promotion, public relations or advertising agreements.
- g. Any sales distribution agreements, broker sales representative and franchise agreements.
- h. Sample of recent marketing literature, including price schedule.

8. MANAGEMENT, EMPLOYEES AND CONSULTANTS:

- a. Any agreements, documents, understandings or proposed transactions between the Company and any of its current or former employees, officer, directors, affiliates, or any affiliate thereof, as well as any employment agreements, indemnification agreements, confidentiality and/or non-competition agreements and any loans or guarantees.
- b. Consulting contracts.
- c. Any written employment manual or other literature regarding terms and conditions of employment furnished to employees generally.
- d. Non-competition, non-disclosure, employment or similar agreements to which the Company is a party.

- e. Employee benefit, pension, profit sharing, deferred compensation, equity participation, retirement, medical, dental, life insurance, disability, savings, stock option, bonus and other employee or management qualified and unqualified compensation plans offered or provided to employees of the Company including a description of the benefits provided to the Company and the employee's share of the cost of said plans and any related agreements or documentation including the employee benefit materials listed on Exhibit A attached hereto.
  - f. Collective bargaining agreements or other material labor contracts.
  - g. List and description of the Company's policies concerning severance, insurance, holiday, vacation and sick leave.
  - h. Form of Employee Confidentiality Agreement.
  - i. A list of officers and directors and their annual compensation.
  - j. List of each salesperson and annual sales by customer.
  - k. Current commission for all independent contractors or employees.
9. INTELLECTUAL PROPERTY:
- a. List of all foreign and domestic patents and patent applications held by the Company.
  - b. List of any allowed or pending trademarks, trade names, service marks or copyrights.
  - c. List of proprietary processes controlled by the Company and other trade secrets.
  - d. List of licensing agreements.
  - e. Name of the law firm which handles patent, trademark or copyright matters for the Company and its subsidiaries, if any, and the contact person there.
  - f. Any correspondence from third parties regarding potential infringement of intellectual property rights of others.
  - g. Agreements and documents relating to the Company's proprietary rights (e.g., patents, trademarks, service marks, trade names, copyrights, etc.), including any royalty agreements and licenses held or granted with respect thereto.

10. TANGIBLE PROPERTY:

- a. Schedules of inventories, including descriptions, locations, date of manufacture and quantities.
- b. Schedule of all material equipment used by the Company indicating the ownership and nature of sales equipment and the material terms of any finance base or security agreement pursuant or subject to which such equipment may be leased or owned.
- c. A listing of all inventory that represents an in-stock supply exceeding the Company's most recent two year sales forecast, showing the Company's cost for each item of inventory that exceeds said forecast.
- d. A listing of all obsolete demonstration or used inventory (categorized according to said three classes) showing a description count and cost.
- e. List of real property owned by the Company, including descriptions and locations.
- f. All outstanding leases for real and personal property to which the Company is either a lessor or lessee and/or option agreements and all amendments and modifications thereof.
- g. Copies of deeds; zoning codes, ordinances and restrictions; utility reports; plans and specifications; title insurance policies; exceptions to title; engineering reports; surveys; studies; rent rolls; tax statements; environmental audits or investigations; soils reports; test results; and other reports, documents or instruments which affect any real property owned or leased by the Company or the Company's interest therein.
- h. List of any security interests in personal property, including any UCC filing.
- i. Any written reports prepared during the last five years relating to the value of the Company or any of its assets.

11. LITIGATION AND AUDITS:

- a. All letters from counsel sent to auditors since inception for year-end and current interim audits, i.e., "litigation letters."

- b. Complaints, orders or other significant documents in pending or threatened matters involving claims of \$10,000 or more or seeking injunctive or other equitable relief, including patent and trademark matters.
  - c. Active litigation files, including letters asserting claims, complaints, answers, etc.
  - d. Any litigation settlement documents.
  - e. A summary of any decrees, orders, awards or judgments of courts or governmental agencies relating to or affecting the Company and copies of relevant documents.
  - f. Description of any warranty or product liability claims which have been made against the Company or any partnership or joint venture and the resolution of such claim.
  - g. Information regarding any material litigation to which the Company is a party or in which it may become involved.
  - h. Amounts of reserves in connection with any pending cases and claims.
12. INSURANCE:
- a. Schedule and copies of all insurance policies of the Company covering property, liabilities and operations.
  - b. Schedule and copies of any other insurance policies in force, such as “key person” policies, director indemnification policies or product liability policies.
13. PARTNERSHIP OR JOINT VENTURE AND MANAGEMENT AGREEMENTS:
- a. List of partnership, joint venture or management agreements, if any, and copies thereof.
  - b. Collaborative agreements, if any, and copies thereof.
14. FOREIGN OPERATIONS:
- a. List of foreign countries where the Company is doing business.
  - b. List of foreign countries (if any) in which the Company is qualified to do business.

15. GOVERNMENTAL REGULATIONS AND FILINGS:

- a. Summary of all OSHA inquiries (if any).
- b. Summary of all EPA, EEO, the Toxic Substances Control Act, the Resource Conservation and Recovery Act (etc.) inquiries (if any).
- c. Files documenting EEOC, NLRB, ERISA and OSHA compliance.
- d. Any citations or notices received from governmental agencies.
- e. Copy of federal, state, local and foreign income tax returns since inception and their disclosure regarding status (i.e., Have all returned been filed? Have all taxes been paid?).
- f. The Company's most recent IRS and state tax audit reports and any other tax audit reports received since inception, and all settlement or litigation documents related thereto.
- g. Correspondence, assessments and audits during the past five years with respect to sales and use taxes.
- h. Permits, licenses, governmental approvals, certificates, registrations, concessions, exemptions or other authorizations required for the Company to conduct its business.
- i. Summary of any pending or threatened investigations and governmental proceedings.
- j. Any material reports to, and correspondence with, any governmental entity, including all closing letters or other materials relating to the initiation or termination of a dispute with relevant governmental authorities (foreign or domestic).
- k. Documents, reports, notices, correspondence and files relating to any past or current investigations or proceedings by any governmental agencies (including environmental protection, employee safety matters, antitrust or trade practices, food and drug regulations and equal opportunity) with respect to the Company.

16. MISCELLANEOUS:

- a. All software licenses, software maintenance and service agreements and any other reports, correspondence or material to assist in making a determination as to whether the Company's technology is Y2K-compliant.
- b. All other agreements material to the Company's financial condition, properties, employee relations, customer relations or business prospects.
- c. Description of all material contracts and transactions under discussion or in negotiation of the type referred to hereinabove.

## EXHIBIT A

### EMPLOYEE BENEFIT DOCUMENTS

1. Copies of all employee benefit plans within the meaning of Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") (including plans excluded from ERISA coverage under § 4(b)) and any bonus, stock option, incentive compensation, deferred compensation, vacation pay, holiday pay, paid or unpaid leave, severance pay, life insurance, disability insurance, cafeteria plan, Dependant Care Assistance Plan, educational assistance, funeral or jury leave, phantom stock, employee loan, credit union or similar plans, programs or practices maintained, sponsored or contributed to by the Company, or any business under common control with the Company within the meaning of Section 414 of the Internal Revenue Code of 1986, as amended ("Code") ("Affiliates"), for the benefit of the employees or former employees (including retirees) of the Company or its Affiliates as well as any plan, program or practice under which a change in control of the Company might trigger a benefit. If any such plan, program or practice is not in writing, an accurate written description of such plan is requested. All of the above described plans, programs or practices are collectively referred to herein as the "Plans."
2. All Plan documents and all documents or instruments establishing or constituting any related trust, annuity contract, insurance policy, HMO, PPO, or other contracts, or other funding instrument, including any amendments thereto, and descriptions of any Plans or amendments which are unwritten.
3. All Form 5500's filed for all of the Plans for the last two years and any other documents or correspondence relating to the Plans that have been provided to or filed with the Internal Revenue Service or Department of Labor during the last two years.
4. Any administrative or investment management services agreements with respect to any of the Plans.
5. The most recent IRS determination letters on any of the Plans which are intended to qualify under Code Sections 401 and 501.
6. The most recent actuarial valuation or other valuation of benefits payable (both vested and unvested) under any of the Plans.

7. The most recent Summary Plan Descriptions for all of the Plans which are employee benefit plans within the meaning of Section 3(3) of ERISA as well as any written employee communications describing the Plans.
8. The most recent financial statements for any of the Plans for which financial statements have been prepared whether or not audited.
9. A written description of the amount of the contributions made to or the cost of providing benefits under each of the Plans for the last two years.
10. A list of all individuals not listed as active employees having reinstatement rights under FMLA, CFLA, USERRA.
11. All documents describing the benefits available under any Employer Assistance Programs.