
Your investment bankers will require certain data in preparation of selling documentation, contained in the **Confidential Information Memorandum** ("CIM"). The following "Legal Due Diligence" will be required by the acquirer once a Letter of Intent has been agreed to by the buyer and seller. While this example list appears onerous (it will be tailored to the specifics of the deal), the good news is that this data needs to be assembled once, and if the planned transaction does not occur, this data will be used in subsequent proposed transactions. Your investment banker will manage this data accumulation and disbursement via a data room set up for this purpose.

Legal Due Diligence requested by the Acquirer of the Target Company

For example purposes only

Sample Due Diligence Request List

TO: [Seller]
FROM: [Buyer]
DATE: [_____]

RE: **Due Diligence Request List**

In connection with the proposed acquisition of seller (the "Company"), _____, as legal counsel to the buyer, will need to review the documents described on the attached list.

References in the list to the "Company" should be deemed to include the Company, its subsidiaries and their respective predecessors. When you provide requested documents or information to us, please indicate in the spaces provided whether the document or other requested information has been previously provided, is currently being provided, is available for review at [your offices or the Company's local office] or is not applicable.

Please note that additional documents may be requested during the course of our review of the Company. If compiling any of the requested items would be impracticable or unduly burdensome, please let us know and we would be happy to discuss the items with you. In the event of any questions or comments, please do not hesitate to contact _____ at _____.

- "A" = Access to materials provided
- "P" = Copy Previously provided
- "H" = Copy provided Herewith
- "N" = Not applicable
- "E" = Available through EDGAR (Identify by filing type, approx. date of filing, exhibit no.) [NOTE: Delete if Seller is private; also delete Sections 19 and 20 below]

1. BASIC CORPORATE DOCUMENTS

- (a) Legal entity structure, including name, physical location and function of all divisions, subsidiaries or affiliated entities.
- (b) Certificate or Articles of Incorporation and Bylaws, including all amendments.
- (c) Minutes of all meetings and written consents of board of directors, Board committees and other committees and stockholders, including copies of notices of all such meetings where written notices were given and all written waivers of required notices.
- (d) List of all states and foreign countries where property is owned or leased or where employees are located, indicating in which jurisdictions the Company is qualified to do business and indicating principal business activity at each location.
- (e) List of states and foreign countries in which the Company contemplates undertaking business operations, either directly or through other parties.

2. STOCKHOLDER INFORMATION

- (a) Samples of common and preferred stock certificates, debentures and any other outstanding debt or equity securities.
- (b) The Company's stock books.
- (c) Lists of all current owners of shares, including address, number of shares owned, dates of issuance and full payment, the consideration received by the Company and applicable stop transfer orders or restrictive legends.
- (d) List of all options, warrants and other rights to acquire equity securities, including date of grant or issuance, exercise or conversion price, number of shares, vesting schedule and names and addresses of holders.

3. AGREEMENTS REGARDING SECURITIES

- (a) Stock option plans and forms of option agreements which have been used.
- (b) Copies of all warrants, including all amendments.
- (c) Stock purchase agreements and any related documents.
- (d) Any other documents relating to sales of securities by the Company, including any private placement memoranda or other offering circulars.
- (e) Any agreements and other documentation relating to repurchases, redemptions, exchanges, conversions or similar transactions involving the Company's securities.
- (f) Permits, notices of exemption and consents for issuance or transfer of the Company's securities and other evidence of qualification or exemption under applicable state blue sky laws.
- (g) Forms D or any other evidence of qualification or exemption under the Securities Act of 1933, as amended.
- (h) Employee stock ownership plans, stock purchase plans or similar plans and forms of agreements which have been used.

(i) Copies of any voting trust, buy-sell or other similar agreement covering any of the Company's securities.

(j) All agreements containing registration rights or assigning such rights or any other rights (including preemptive rights, rights of first refusal, etc.) granted with respect to the capital stock of the Company.

4. OTHER MATERIAL CONTRACTS

(a) Convertible, senior or other debt financings, if any.

(b) Bank line of credit or loan agreements and guarantees, including any amendments, renewal letters, notices, etc.

(c) Description of any default by any party under any contract or commitment affecting the Company or its property, or any circumstance which might reasonably be expected in the future to give rise to such default.

(d) All outstanding leases of real and personal property, including equipment leases.

(e) All agreements entered into by the Company or any of its subsidiaries relating to a material acquisition or disposition of assets or stock and schedules of exceptions thereto.

(f) Material contracts (over \$[]) with suppliers, contract manufacturers or customers, including OEM and similar agreements.

(g) List of major suppliers, indicating total and type of purchases from each supplier during the last two fiscal years and the current fiscal year, any key suppliers not subject to supply agreements, sole source suppliers and any subcontracted work.

(h) Model or standard sales or license agreements, if used by the Company.

(i) Agreements for loans to key employees, and any other agreements with officers, directors, employees and consultants, whether or not now outstanding.

(j) Schedule of insurance policies in force covering property of the Company and any other insurance policies in force (such as "key man" policies).

(k) Partnership, product development and joint venture agreements, if any.

(l) All security agreements covering the Company's assets.

(m) All agreements or proposed agreements with distributors, dealers and sales representatives.

(n) Indemnification agreements.

(o) Research and development agreements.

(p) All agreements, or proposed agreements pursuant to which the Company licenses any of its proprietary rights or is licensed by any third party to any proprietary rights.

(q) All agreements concerning the sharing of R&D facilities or similar agreements.

(r) List and copies of any intercompany agreements with affiliated entities relevant to the development, use or commercialization of the Company's technology (as defined below).

(s) Copies of standard forms of purchase orders, quotations and order acknowledgments relevant to the Company's technology.

(t) Description of any provisions that purport to restrict the Company's ability to compete

with respect to the Company's technology, whether by agreement, court order, or otherwise.

(u) List and copies of all source code, manufacturing, development or other form of escrow agreements, whether internal or third party escrow accounts, which relate to the Company's technology and to which Company is a party.

(v) Other material contracts.

5. PRODUCTS, MANUFACTURING AND COMPETITION

(a) List of principal products and, for each product, (i) short description of the product, (ii) principal competitive products, (iii) principal customers and (iv) sites where manufactured.

(b) List of third party developers showing total and type of project for each developer.

(c) List of third party software duplicators and manual publishers, if any.

(d) Copies of any non-competition agreements of the Company or employees.

(e) List of the top 20 customers of the Company, indicating the types of products and the amounts of each purchased.

(f) List of service and support contracts.

(g) Company-financed customer purchase agreements.

(h) Price lists, catalogues and brochures for the Company's products.

(i) Forms of warranties and guarantees provided to customers.

(j) List of major risks, in rough priority, of technical problems or limitations which current and planned product lines may encounter.

(k) Description of any significant customer relationship terminated or suspended within the last three years.

6. GOVERNMENTAL REGULATIONS

(a) Permits for conduct of business, including licenses, franchises and concessions, if any.

(b) All certificates, permits, etc., evidencing compliance with specific regulations, including environmental and workers health and safety regulations.

(c) List and description of any government regulations (federal, state, local or foreign) of whatever kind (safety, labor, environmental, etc.) which have special application to the Company's business.

(d) Copies of all material filings, applications and correspondence with, all documents relating to investigations or reviews conducted by, and all demands, notices, requests for information, approvals, authorizations, determinations, rulings or orders received from, any federal, state, local or foreign governmental agencies.

(e) Description and status statement of all pending or threatened regulatory, judicial or administrative actions relating to regulatory matters.

(f) Any material agreements, correspondence, undertakings, or understandings between the Company and any regulatory body.

(g) Access to the Company's files relating to regulatory matters; copies of reports of any inspections, surveys or audits, whether generated internally or by regulatory authorities or other third parties.

7. TAXATION

(a) Provide all federal, state, local and foreign income and franchise tax returns of Company filed for the last three fiscal years and all such returns for any prior year that is still subject to audit or adjustment.

(b) Identify all jurisdictions in which sales and use tax returns are filed by Company including a summary by jurisdiction of total sales and use taxes paid during the last three fiscal years. Please provide details with respect to any significant changes to this list of filing jurisdictions since incorporation.

(c) Provide a schedule by jurisdiction of all property taxes paid during the last three fiscal years.

(d) Identify any excise tax returns filed by the Company for the production, sale and distribution of product; identify all jurisdictions where the Company is subject to VAT or a similar tax.

(e) Provide any private letter ruling or other letter ruling obtained from the IRS or any state, and each application for any ruling (including any pending ruling) pertaining to Company.

(f) Provide summary results of all tax examinations and audits (federal, state and foreign) pertaining to Company (including income, sales and use, employment, and property tax) completed within the last five years (or still outstanding) including copies of all revenue agent reports, closing agreements, or other correspondence from or to any taxing authority addressing issues raised in the examination.

(g) Identify all material intercompany transactions within the last three fiscal years, including transactions between U.S. and foreign affiliates of the Company, as well as transactions between the Company and its stockholders, if not provided elsewhere.

(h) Provide all tax sharing agreements, tax indemnity agreements, and transfer pricing agreements pertaining to the Company.

(i) Provide a list of states in which more than [\$100,000] products or services were sold within each of the last three fiscal years.

(j) Provide a list of all states in which independent contractors perform any sales, marketing or product support activities (including installation, repair or warranty service) on behalf of the Company.

(k) Provide a schedule of federal and state net operating loss carryforwards and tax credit carryforwards, including years of expiration.

(l) Provide a description of any tax contingency reserves on the Company's balance sheet and any work papers explaining such tax reserves.

(m) Identify any pending claims for refund of any tax, fee or similar item.

(n) Describe any material tax planning strategy or tax shelter transaction implemented within the last five years and provide any related correspondence.

8. LITIGATION AND AUDITS

- (a) All management letters or special reports from the auditor and responses thereto concerning internal accounting controls in connection with any current audit and the audits for the last three fiscal years.
- (b) Settlement documents, if any.
- (c) Decrees, order and judgments of courts or governmental agencies with respect to the Company.
- (d) Description of any warranty claims which have been made against the Company or any related partnership or joint venture and the resolutions of such claims.
- (e) List of pending, asserted or threatened lawsuits or other claims or investigations, together with short summary of the claims and related facts.

9. EMPLOYEES AND MANAGEMENT

- (a) Description of any significant labor problems the Company has experienced.
- (b) Management and Organization chart.
- (c) Description of any material transactions since inception with any “insider” (i.e., any officer, director, or owner of a substantial amount of the Company’s securities) or any associate of an “insider.”
- (d) Copy of form of any invention and confidentiality agreement to protect trade secrets and list of any officers, directors, employees or consultants who have not signed such agreements.
- (e) Copy of form of offer letter and all employment agreement.
- (f) Summary of standard employee benefits (vacation, sick leave, sabbatical, medical insurance, life and disability insurance, etc.)
- (g) A list of the amount of cash compensation (including as separate items the amount of salary, bonus, commission and deferred salary pursuant to any plans) and other forms of compensation (such as car allowances, forgiveness of loans and other perquisites) paid to each of the Company’s officers and directors for services rendered in the last full fiscal year and to be paid in the current fiscal year.
- (h) Description of commissions paid to managers, agents, or other employees for the last fiscal year and to be paid in the current fiscal year.
- (i) Founders agreements, “golden parachute” agreements, severance agreements, and any other agreements containing acceleration benefits or other benefits upon termination of employment or in connection with a change in control, if any.
- (k) Summary of worker’s compensation claims made.
- (l) Personnel policies, manuals and handbooks.
- (m) Number of employees by department.

10. EMPLOYEE BENEFITS

(a) Copies of all 401(k) and other qualified pension and profit sharing plan documents, all amendments, summary plan descriptions, adoption agreements, trust agreements, administrative services agreements, group annuity contracts, resolutions, IRS opinion/determination letter, last three years nondiscrimination and compliance testing and last five years Form 5500.

(b) Copy of group health plan document and Summary Plan Description (SPD), last three years Form 5500.

(c) Copy of Section 125 Plan document, SPD (include dependent care plans, health flexible spending accounts, etc.) and last three years Form 5500.

11. FINANCIAL INFORMATION

(a) Financial, operating or business plans and projections, including underlying assumptions.

(b) Backup data for revenue forecasts by product and/or market segments and estimates of the Company's market share in each.

(c) Balance sheet account reconciliations and specific supporting detail: cash, receivables and unbilled receivables, sales-type leases, inventory, prepaids, fixed assets, reserves and accruals, sales tax, deferred income, debt, stock reconciliations.

(d) Financial statements for past [three] fiscal years, and interim financial statements covering each completed quarter of current fiscal year.

(e) Most current balance sheet and income statement.

(f) Quarterly projected financial statements for the next three fiscal years.

(g) Quarterly analyses of sales and cost by major market segments/product lines for the current year to date and the next three fiscal years.

(h) Reserves analyses as of the end of the last fiscal year and last fiscal quarter.

(i) Comparison of budget to actual (summary and detail) for last fiscal year and current fiscal year to date.

(j) List of all recorded or unrecorded contingent liabilities as of the end of the last year and at the latest available date.

(k) Capital budget.

(l) Cash report and cash flow projections.

(m) Brief description of cash investment practices and policies and status of current cash balance investments.

(n) Brief description of any foreign currency transactions, practice and policies.

12. MARKETING INFORMATION

- (a) Internal market size and growth projections (by units and dollars) for each market segment.
- (b) Market share data (by units and dollars) for the Company and any competitors, both current and historical.
- (c) Any external/independent analysis of market size, growth and share data.
- (d) List of principal competitors by market segment.
- (e) Any recent analysis of competitors.
- (f) Any customer survey data which has recently been collected.
- (g) All current product and marketing literature.
- (h) Any noncompetition agreements or other agreements restricting the Company's business activities.
- (i) Market research, marketing studies, long- and short-term strategic plans and valuation analyses prepared by the Company or third parties for the Company.

13. GOVERNMENT CONTRACTS

- (a) All Government Contracts, including all modifications and attachments, and any Cooperative Agreements under any Government technology transfer program, e.g., CRADAS, which has not been "closed-out" by the Government, including any contracts which have been fully performed but for which the Company has not received final indirect cost rates (the "Government Contracts").
- (b) All representations and certifications signed for each Government Contract, including any "secondary" certifications under the Procurement Integrity Act executed by personnel "substantially involved in the procurement."
- (c) Any and all Small Business Subcontracting Plans drafted and/or approved for each Government Contract.
- (d) Any Cost Accounting Standards Disclosure Forms submitted with or applicable to a Government Contract.
- (e) Any "Advance Agreements" pertaining to a Government Contract regarding the allowability or allocability of contract costs.
- (f) All Cost or Pricing Data submissions for each Government Contract (SF 1411 and accompanying materials).
- (g) Descriptions of the Company's internal system and practices used for gathering cost or pricing data, including practices with regard to conducting "final sweeps" and establishing "cut-off-dates" for submission.
- (h) List and briefly describe any audit conducted and audit findings for each Government Contract, including pre-award and post-award audits, and provide any DCAA or other audit reports in the Company's possession relating to the Government Contracts.
- (i) List technical data provided under the Government Contracts with:
 - (1) Unlimited Rights;
 - (2) Government Purpose (License) Rights

- (3) Limited Rights
- (j) List computer software provided under the Government Contracts with:
 - (1) Unlimited Rights
 - (2) Government Purpose (License) Rights
 - (3) Limited Rights
- (k) List of any restricted rights computer software incorporated into non-commercial Government products.
- (l) Any Requests for Equitable Adjustment (REA's) or claims submitted under any Government Contract, including all backup material provided by the Company to the Government, and any Government responses to such REA's or claims.
- (m) List of Firm Fixed Price or Other Fixed Price Government Contracts currently in a cost-overflow position, and a brief description of the magnitude and cause of such cost overrun.
- (n) List and brief description of any Government claims of any sort asserted against the Company, e.g., defective cost or pricing data, deductive changes, false certifications, etc.
- (o) Any terminations for convenience settlement proposals/claims submitted under any Government Contract, and a brief description of the status of any such proposal/claim.
- (p) List of any Government Contracts terminated for Default and any accompanying claims by the Government for excess procurement costs.

14. EMPLOYEE BENEFIT MATTERS

- (a) List of any employee benefit plans sponsored or maintained by or for the Company, including pension, profit sharing, stock bonus, incentive stock option, nonqualified stock option, stock purchase, restricted stock, stock appreciation rights, savings, 401(k), nonqualified deferred compensation plans and all welfare benefit plans.
- (b) With respect to each qualified profit sharing, 401(k), money purchase pension, stock bonus, employee stock ownership, defined benefit pension and/or multiemployer pension plan sponsored or maintained by or for the Company:
 - (1) Copies of all plan documents, trust agreements, plan amendments and/or adoption agreements;
 - (2) Certified resolutions of the Board of Directors adopting the Plan, adopting Plan amendments and/or delegating fiduciary responsibility to any person(s) or entities;
 - (3) Copies of the last three years nondiscrimination and compliance tests (e.g., ADP/ACP, 415, 410(b), 402(g)).
 - (4) Copies of the five most recent Forms 5500, including all schedules, attachments and audit reports, if any;
 - (5) Copies of any third party funding contracts, including group annuity contracts, insurance contracts, investment fund contracts, investment management agreements;
 - (6) Copies of the most recent summary of plan accounts prepared by the plan

recordkeeper, or, if a defined benefit plan, the most recent plan benefit summaries;

(7) Copy of the most recent summary plan description and any summary of material modifications distributed to plan participants;

(8) Copy of the most favorable determination letter or opinion from the Internal Revenue Service;

(9) Copy of the two most recent Summary Annual Reports and information as to dates of distribution;

(10) Copy of beneficiary designation form;

(11) Copies of written notice of tax consequences (Section 402(f) notice) provided to participants, distribution request forms, election and waiver forms with respect to qualified joint and survivor annuities and qualified preretirement survivor annuities, if applicable;

(12) Copies of employee stock ownership plan loan documents, including promissory notes, pledge agreements, escrow agreements, and any other document or agreement prepared in connection with an exempt ESOP loan or transaction under Treasury Regs. § 54.4975-7 or § 54.4975-11;

(13) Copies of the two most recent actuarial reports, if applicable;

(14) Copies of PBGC-1 and Schedule A for part two years;

(15) Copy of fiduciary bond;

(16) Information regarding any defined benefit plan funding deficiency or multiemployer plan withdrawal liability assessment, including information as to the amount of the funding deficiency or withdrawal liability, the original due date, the date the deficiency or withdrawal liability was satisfied, copies of Form 5330 and proof of payment (canceled check) and copy of notice distributed to employees disclosing a funding deficiency; and

(17) Copies of any pending or previous IRS or DOL audit inquiries/examinations or related correspondence.

(c) With respect to each welfare benefit plan sponsored or maintained by the Company (including all health, medical, dental, life insurance, dependent care reimbursement, pretax premium, health care reimbursement, section 125 flexible benefit, disability, accidental death and dismemberment insurance, severance, vacation, retiree health and group legal plans and any plan that otherwise satisfies the definition of a welfare benefit plan under the Employee Retirement Income Security Act):

(1) Copy of the plan document or contract under which benefits are provided;

(2) Copy of the summary plan description and any summary of material modifications distributed to employees;

(3) Copies of the Form 5500s, including all attachments and schedules, for the past three years;

(4) Copy of COBRA notice (both initial and qualifying event) and written procedures;

(5) Copy of or information concerning any promise to extend benefits under the plan to retirees;

- (6) Copies of all written communications to participants within the past two years concerning the plan;
- (7) Copies of HIPAA notices and certificates; and
- (8) Copies of Cancer Rights Act notices.

15. PROPERTY, FACILITIES, PERMITS AND ENVIRONMENTAL MATTERS

- (a) List and description of all real property owned or leased by the Company; location, character and general nature of operations conducted at each location; nature of the title held, and any mortgages, liens or encumbrances on the property; title documents confirming ownership; report by public notary (in civil law countries) or other person authorized to conduct title searches.
- (b) List, with brief description, of all material personal property owned, leased or otherwise used by the Company.
- (c) List of all facilities currently owned, leased or otherwise used by the Company, including location, square footage, space available for expansions, presence of any known aboveground or underground chemical or fuel storage tanks or sumps, and brief description of lease/use terms (if applicable) and current and prior usage (including use by other owners and tenants, if known).
- (d) Schedule of property, plant and equipment by category including gross asset value, accumulated depreciation, range of depreciable lives, depreciation methods and market value/replacement cost estimates (if available).
- (e) Summary of all outstanding capital purchase commitments.
- (f) For material properties and facilities: deeds, mortgages, deeds of trust, title insurance policies, title reports, surveys, certificates of occupancy and appraisals and valuations; UCC searches in relevant states; judgment searches in relevant states; description of other liens, encumbrances and zoning restrictions.
- (g) List of all facilities formerly owned, leased or otherwise used by the Company, including location, square footage, presence of any known aboveground or underground chemical or fuel storage tanks or sumps, dates of ownership/lease/use, and brief description of usage (including use by other owners and tenants, if known).
- (h) List, including maximum quantity onsite at any one time and brief description of usage, of all hazardous materials/wastes currently or previously (if known) stored, used, transported, generated, manufactured, treated, discharged, or disposed in connection with the Company's business. Provide MSDS forms for listed items, if available.
- (i) List, and brief description of status, of all permits, licenses, certificates, and other governmental approvals (collectively, "Permits") held or needed by the Company in connection with its business or properties owned, leased or otherwise used by the Company, including Permits relating to environmental, hazardous materials/wastes, and worker health and safety matters.
- (j) All claims, demands, notices or requests for information, and responses thereto (collectively, "Notices"), given to or received from any agency or other person

regarding any matters concerning the environment, hazardous materials/wastes, or worker health and safety, including any Notices of potential responsibility for environmental contamination.

(k) List, and brief description of status, of environmental, hazardous materials/wastes, or worker health and safety problems, injuries, conditions or issues known to the Company concerning the Company's business or any facility or property owned, leased or otherwise used by the Company, and including any environmental contamination conditions and any known or potential violations or non-compliance with applicable laws, rules, regulations or Permits.

(l) List, and brief description of status, of spills, leaks, or other unauthorized discharges of hazardous materials/wastes occurring in connection with the Company's business or at any property or facility when owned, leased or otherwise used by the Company.

(m) List, and brief description of status, of all pending or threatened criminal, civil, regulatory, judicial or administrative actions or proceedings relating to the environment, hazardous materials/wastes, or worker health and safety matters.

(n) Any reports, summaries or evaluations regarding matters related to worker health and safety, the environment or hazardous materials/wastes, including assessments or audits, whether internal or external, and any sampling results from any hazardous materials/wastes, soil, air or water related to the Company's business or any facilities or property owned, leased or otherwise used by the Company

(o) List, with brief description of status, any environmental investigation or remediation which the Company or another party is conducting, has completed, or which may be required (if known) in connection with the Company's business, or any facility or property owned, leased or otherwise used by the Company.

(p) List, with brief description of status, any modification, removal, repair, closure or installation of equipment or improvements, including equipment or improvements related to hazardous materials/wastes, which the Company or another party is conducting or which may be required (if known) in connection with the Company's business, or any facility or property owned, leased or otherwise used by the Company.

16. TECHNOLOGY AND PROPRIETARY RIGHTS

(a) List and copies of all patents and applications pending, held or being prosecuted by the Company in the United States or elsewhere, with descriptive titles, numbers, jurisdiction, and copies of all correspondence to or from examining authorities or other parties regarding such patents and patent applications.

(b) List of all copyright registrations and applications related to the all intellectual property and intellectual property rights used in connection with the Company's business or necessary for its business as presently conducted and as currently proposed to be conducted (collectively, "Technology") pending, held or being registered by the Company in the United States or elsewhere, with descriptive titles, numbers, and jurisdiction.

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- [] (c) List of all trademarks, registered or unregistered, used in connection with the Technology, whether or not owned by or licensed to the Company, with a description of products or services associated therewith, and numbers, jurisdiction, status of any registration applications pending, if any.
- [] (d) List of all categories of Technology (whether or not patented or patentable), together with a brief description of how each such Technology was developed or acquired.
- [] (e) List and copies of all license agreements and sublicense agreements related to the Technology pursuant to which the Company licenses any technology or intellectual property rights to or from third parties, including model or standard sales or license agreements (including shrink-wrap or click-wrap licenses).
- [] (f) List and copies of all agreements related to the Technology pursuant to which the Company has assigned any technology or intellectual property rights to, or obtained any technology or intellectual property rights from, third parties, including without limitation intellectual property assets transferred into the Company at or in connection with its formation or spinoff. Also include a description of all interests, whether direct or indirect, whether through ownership or otherwise, of any founder, officer, director, former officer or former director in the technology and/or intellectual property relevant to the Company, and copies of Company's standard form of agreements with founders, directors, officers and advisory board members, if applicable.
- [] (g) List and copies of all agreements pursuant to which the Technology are distributed or marketed by third parties, including without limitation all sales representative, referral, reseller, value-added reseller, original equipment manufacturer and all other distribution agreements.
- [] (h) List and copies of all joint ownership, research and development agreements which relate to the Technology and to which the Company is a party, including for each such relationship a description of the ownership and rights to any developed technology, and any payment or financial obligation with respect to such developed technology.
- [] (i) List and copies of all agreements pursuant to which products or components related to the Technology are manufactured or assembled by, or pursuant to which the Company acquires products or components for products from, third parties.
- [] (j) List of engineers and other employees who have participated in or contributed to the development of the Technology, a brief description of their roles, and copies of their resumes or other evidence of previous job history.
- [] (k) List of all non-employees (individuals and entities) who participated in any Technology development for Company, including information concerning each project, the amount and type of services performed and whether each such person has executed an assignment of rights in intellectual property to the Company.
- [] (l) Copies of the Company's standard form of agreements with employees and independent contractors regarding inventions, and a list of all employees and all independent contractors who have executed the agreements, and a list of all employees and all independent contractors who have not executed the agreements.
- [] (m) Copies of confidentiality, non disclosure, and assignment of invention agreements, between the Company and employees, and between the Company and independent

contractors, the contents of which differ from those set forth in the standard form, including a description of any work or inventions excluded from such agreements.

(n) Copies of the Company's standard form of confidentiality and non disclosure agreements, between the Company and persons or organizations other than employees and independent contractors, and a list of persons or organizations who have executed the agreements.

(o) Copies of confidentiality and non disclosure agreements, between the Company and persons or organizations other than employees and independent contractors, the contents of which differ from those set forth in the standard form.

(p) All documents, correspondence, memos, and other papers relating to the Company's written policies on intellectual property, including trade secrets and proprietary information.

(q) Copies of all security agreements pursuant to which a lender or creditor has taken a security interest in specific intellectual property assets or "general intangibles" which relate to the Technology.

(r) Uniform commercial code filings, or other state and federal filings, that relate in any way to the Technology.

(s) Law firm(s) handling patent, trademark, copyright and other intellectual property matters for the Company, and any subsidiary, and contact person name, address and phone number.

(t) All documents, correspondence, memos, notes, and other papers relating to any Technology development by the Company that involves the derivation or use of specifications or technical information derived from the products of third parties.

(u) Listing of all open source software applications, programs, packages, or libraries that have been used by Company to develop any of the Technology, or that have been incorporated into the Technology, along with a copy of the accompanying license for such open source applications.

(v) All documents, correspondence, memos, notes, and other papers analyzing or assessing the validity or scope of any of the Company's copyrights, patents, or trademarks which relate to the Technology.

(w) Description of any development projects relevant to the Technology currently underway, including scope, personnel involved in the development and status.

(x) Description of all Company trade secrets and related know-how necessary or useful to conduct the business of Company and/or to utilize the Technology.

(y) List and copies of all other information, documents and agreements relating to the Technology not covered by this list but which would, in Company's judgment, be material to evaluation of the Technology by prospective buyers thereof.

PLEASE NOTE: If Company uses a standard format for any of these types of agreements, please provide only a single copy of that format and any negotiated versions with material deviations from that format.

17. DEFENSE AND PROSECUTION OF INTELLECTUAL PROPERTY CLAIMS

(a) All documents, correspondence, pleadings, memos, notes, and other papers relating to any pending or threatened intellectual property litigation or claim against the Company concerning the Technology, or any other assertion, suggestion, or inquiry by a third party that the Company and/or the Technology is infringing its intellectual property rights.

(b) All documents, correspondence, pleadings, memos, notes, and other papers applicable to any dispute or litigation with any third party (including without limitation customers, employees, suppliers and competitors) relating to ownership, use or commercialization of the Technology.

(c) Materials referred to during the process of developing any Technology that is the subject of any pending or threatened litigation, claim, assertion, suggestion, or inquiry.

18. EXPORT MATTERS

(a) Copies of correspondence with, submissions to, or documents received from the Bureau of Industry and Security (formerly Bureau of Export Administration), Office of Defense Trade Controls, or Office of Foreign Assets Control, including but not limited to any requests for advisory opinions, commodity jurisdiction requests, commodity classification requests, applications for export licenses and responses thereto (including notices of intent to deny, return without action notices, and denials), export licenses, "is informed" letters, reports filed pursuant to the Export Administration Regulations or an export license, requests for documents or other information, voluntary disclosures, pre-charging letters, charging letters, warning letters, and documents reflecting settlement of alleged export control violations.

(b) Copies of correspondence with or submissions to the Department of Justice, Federal Bureau of Investigation, or any other government agency related to any export or domestic release of any technology or software.

(c) List or product matrix identifying the Export Commodity Classification Number (ECCN) or U.S. Munitions List classification that applies to each of the items produced or sold by the Company internationally. Separately identify any items that contain or utilize cryptographic functionality (encryption).

(d) List of the license authority used to export each item exported by the Company, with copies of any required supporting documentation (e.g., letters of assurance to support use of License Exception TSR).

(e) List of the countries to which Company exports or has exported any items.

(f) List identifying Company products, technology, or services that are: (i) on the United States Munitions List; (ii) have substantial military applicability; or, (iii) are specially designed or modified for military purposes, regardless of whether such items are exported. Please indicate whether the Company has registered with the Office of Defense Trade Controls.

(g) List of foreign national employees (and their countries of nationality) whose job

responsibilities include or require access to technical information or software related to the design, development or production or use of the Company's products. For the purposes of this request, a foreign national employee is any employee who is not a U.S. citizen, a lawful permanent resident alien, an asylee or a refugee.

19. SEC AND NASDAQ [NYSE] FILINGS AND RELATED MATERIALS

- (a) To the extent not available in complete form through EDGAR, all reports and other documents filed with the SEC (e.g., Form 10-K, Form 10-Q, proxy statements, registration statements, prospectuses, etc.) within the last [three] fiscal years and any interim period, all exhibits and schedules filed therewith or incorporated therein.
- (b) Comment letters or other correspondence from the SEC, if any, and responses thereto.
- (c) Any other filings or submissions made by the Company with the SEC within the last [three] years.
- (d) Filings and submissions made with The NASDAQ [the New York Stock Exchange] and any correspondence with The NASDAQ [the New York Stock Exchange] within the last [three] years.
- (e) Copies of all reports or communications to security holders during the last [two] years.

20. PUBLIC FINANCIAL REPORTING

- (a) Reports or "management letters" received by the Company from independent accountants or consultants during the past five years relating to accounting or tax policies or financial control procedures of the Company and any management responses thereto.
- (b) Any written documentation of internal control over financial reporting and disclosure controls and procedures, as such terms are defined in the rules of the SEC.
- (c) Any written documentation of management's assessment of the effectiveness of the Company's internal control over financial reporting; a description of any material changes that have occurred since the end of the last period covered in the Company's periodic reports filed with the SEC or are expected to occur in the future.
- (d) Any written correspondence between the Company's audit committee and its management, auditors, outside counsel or disclosure committee during the past three fiscal years and any subsequent period; any disclosures to audit committee since that date of (a) significant deficiencies or material weaknesses in internal control over financial reporting and (b) fraud involving management or other employees with significant role in internal control over financial reporting.
- (e) Any minutes or similar documentation of the activities of the Company's disclosure committee, if any, during the past three fiscal years and any subsequent period.
- (f) Any report prepared by independent auditors pursuant to Section 204 of the Sarbanes-Oxley Act.
- (g) A description of any reports made pursuant to Section 307 of the Sarbanes-Oxley Act

or the Company's whistleblowing policy, and the Company's response to such reports.

(h) If the Company restated its financial statements in the last five fiscal years or in any subsequent period, furnish a description of the relevant facts pertaining thereto.

21. GENERAL

(a) List and description of all actual or potential conflicts of interests that the Company's directors, officers or employees have or may have due to their relationship with any competitor of the Company, any supplier of goods or services to the Company, any distributor of the Company, any customer of the Company or any other person or entity which has any interest, financial or otherwise, in the Company.

(b) List and description of all transactions between the Company and any stockholder, director, officer, employee or affiliate of the Company (or any entity or person formerly having the status thereof, including amounts and names of parties involved) during the past three years.

(c) Description of all current or proposed loans to officers or directors or other arrangements covered by Section 402 of the Sarbanes-Oxley Act (including those that to which an exemption may apply).

(d) Any director and officer questionnaires submitted within the past five fiscal years.

(e) Copies of all director and officer liability insurance policies.

(f) List and description of all material insurance claims submitted by the Company in the past two years.

(g) All press releases issued during the last 12 months with respect to the Company or its business (if not available on the Company's website).

(h) Copies of the Company's principal business plans for the last three years.

(i) All legal opinions received by the Company during the last two years.

(j) List of parties, if any, whose consent to this transaction will be required and copies of relevant documents.

(k) All documents and information not covered by other items on this list disclosing material information concerning the Company.

Tom Korzenecki
Principal Managing Director

Grand Avenue Capital Partners, LLC

Investment Bankers Member FINRA SIPC

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