[insert co. name and logo]

**Due Diligence Check List**

***[Insert Date]***

For a seller, this checklist can be used to prepare the required due diligence documents. It should be completed in order to provide the potential buyer with a sense that you are sophisticated and credible, BEFORE the sales process begins in order to quickly drive the process toward your desired outcome.  It should be used to organize your documents so they can be disclosed in a manner, using a virtual (digital) data room, to facilitate the most effective sales and negotiation process.  The columns on the right indicate the settings and order chosen to allow access, printing and downloading of files from a virtual data room and apply to the seller. You can use this form to decide the levels of access and disclosure and have them approved by the appropriate authorities before setting up the virtual data room. Note that the settings may vary depending on who the prospective buyer is (e.g. a close competitor or not). THE QUALITY OF YOUR DATA ROOM WILL DIRECTLY IMPACT THE BUYER’S PERCEPTION OF YOU, YOUR BUSINESS. AT A MINIMUM IT WILL IMPACT VALUATION, AND MAY IMPACT WHETHER THE SALE EVEN OCCURS.

For someone buying a business, this checklist can serve to guide your due diligence and requests for information from the seller.

If you have questions or would like assistance, I welcome you to contact me (Rob Pilz) by email at rob@robpilz.com or phone +1.604.722.5361. Supplemental schedules may be required specific to certain industries such as mining.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| # | Due Diligence Item | **Status** | **Security Level** | **Print / Down- loadable** |
|  | Corporate Information: |  |  |  |
|  | Detailed company organization chart showing ownership subsidiaries and jurisdictions |  |  |  |
|  | Incorporation documents (certificates, articles, bylaws and resolutions) |  |  |  |
|  | Minutes of all meetings of directors, committees of directors and shareholders, including copies of any written notices or waivers and any written consent to action without a meeting |  |  |  |
|  | Business licenses and permits and other regulatory filings |  |  |  |
|  | List of, and good standing certificates from, all jurisdictions where Company is qualified to do business |  |  |  |
|  | Schedule of dba’s |  |  |  |
|  | Schedule of predecessor companies or organizations |  |  |  |
|  | Corporate other - Any other contracts, correspondence or information which could possibly have a material effect on the transaction being contemplated |  |  |  |
|  | Securities and Shareholder Information: |  |  |  |
|  | Capitalization table (basic and fully-diluted)Summary (reconciled to balance sheet)Detailed (dates and prices of financings, breakdown of founders, officers, directors and management) |  |  |  |
|  | Share registers |  |  |  |
|  | Documentation related to pledges of common stock  |  |  |  |
|  | Documentation for all equity capital raises (subscription agreements, closing documents etc. ) |  |  |  |
|  | If part of a shareholder tax credit program, any relevant documentation and equity authorizations  |  |  |  |
|  | Detailed listings of current and potential dilutive securities including options, warrants, SAFEs etc.  |  |  |  |
|  | Details of founders shares and escrow shares and any related agreements |  |  |  |
|  | Forms of certificates: - common and preferred stock certificates, warrants, options, debentures and any other outstanding securities |  |  |  |
|  | Any agreements that define or limit the rights of stockholders (including restrictions on transfers or voting rights) and any agreements relating to the voting of shares, including any voting trusts or outstanding proxies, and any lock-up or escrow agreements |  |  |  |
|  | Agreements containing registration rights or assigning such rights |  |  |  |
|  | Agreements relating to repurchases, redemptions, exchanges, conversions or similar transactions |  |  |  |
|  | Agreements and supporting documentation for all debt capital raises with summary reconciliation to balance sheet |  |  |  |
|  | Bank line of credit agreements, including any amendments, renewal letters, notices, waivers, correspondences, etc. |  |  |  |
|  | All documents and agreements evidencing borrowings, whether secured or unsecured, by the Company, including loan and credit agreements, promissory notes and other evidences of indebtedness and all guarantees. |  |  |  |
|  | Financing commitments made to investment banks or otherwise |  |  |  |
|  | Any finder’s fee agreements |  |  |  |
|  | Agreements and supporting documentation for all mergers and acquisitions |  |  |  |
|  | Securities and finance other - Any other contracts, correspondence or information which could possibly have a material effect on the transaction being contemplated |  |  |  |
|  | Employees & Human Resources: |  |  |  |
|  | List of current and projected employees for the coming year, including job title, job description, employee contracts and current compensation (all forms) |  |  |  |
|  | Current organization chart by geography and function  |  |  |  |
|  | List of all current directors and their affiliates |  |  |  |
|  | Job descriptions, resumes and contracts of all executives, managers and other key employees |  |  |  |
|  | Descriptions of all transactions with related parties (officers, directors, management, employees or shareholders) during the past three years |  |  |  |
|  | Detailed documentation related to all employee benefit plans including, without limitation: |  |  |  |
|  | Stock option plans, including director option plans, and forms of agreements  |  |  |  |
|  | Profit sharing plans, including nonqualified profit-sharing plans (none) and bonus plans  |  |  |  |
|  | Employee stock purchase plans, pension plans, and other retirement plans |  |  |  |
|  | Schedule of salaries and bonuses of all employees for the last two years |  |  |  |
|  | Compensation policies and salary structure |  |  |  |
|  | Description and details of any variable pay programs |  |  |  |
|  | Description and details of any sales compensation plans  |  |  |  |
|  | Medical and dental and extended benefit plans  |  |  |  |
|  | Employee handbooks, manuals or other similar policy publications |  |  |  |
|  | Forms of employment agreements in effect, including and standard offer package (such as offer letter, assignment of intellectual property, NDA) and termination letter forms.  |  |  |  |
|  | List of employees or consultants who have not signed standard agreements above |  |  |  |
|  | Complete list of employee terminations in the last 2 years, reasons and description of legal issues. |  |  |  |
|  | Employee surveys including 360’s in the last 2 years |  |  |  |
|  | Standard consulting agreement form |  |  |  |
|  | All plans, agreements or arrangements providing benefits contingent upon a change of control  |  |  |  |
|  | Agreements for loans to or from officers, directors or employees in the past 3 years.  |  |  |  |
|  | List of employment related vendor contracts (e.g. executive search firms, agency temporary firms, unemployment services, etc.) |  |  |  |
|  | In addition to any variable pay programs, a list of any other commitments and/or promises made to employees |  |  |  |
|  | Founders agreements, management employment agreements, indemnification agreements, and "golden parachute" agreements, |  |  |  |
|  | All agreements for loans to and any other agreements (including consulting and employment contracts) with officers or directors, now outstanding |  |  |  |
|  | Documentation related to any affirmative action plans |  |  |  |
|  | Copies of any union contracts or collective bargaining agreements  |  |  |  |
|  | Description of any significant labor problems or union activities the Company has experienced including any collective bargaining agreements |  |  |  |
|  | Compliance with government regulations such as COBRA, HIPAA, FMLA etc. as applicable |  |  |  |
|  | Employment and HR other - Any other contracts, correspondence or information which could possibly have a material effect on the transaction being contemplated |  |  |  |
|  | Financial Information: |  |  |  |
|  | Annual audited (or reviewed) financial statements for a least the last three fiscal years, as well as the most current financial statements. |  |  |  |
|  | Any audit reports or reviews and adjustments for at least the past three fiscal years. |  |  |  |
|  | Detailed quarterly financial statements for the prior two full fiscal years and the current fiscal year to date |  |  |  |
|  | All auditors' letters to management regarding internal accounting controls. |  |  |  |
|  | Descriptions of (and reasons for) any change in accounting methods in the past three years  |  |  |  |
|  | Description and management's assessment of contingent liabilities not reflected in the financial statements  |  |  |  |
|  | Copies of trial balance and general ledger for the last full two fiscal years and to date. |  |  |  |
|  | Access to detailed accounting records including accounts receivable listings, property and equipment ledgers, inventory ledgers, accounts payable ledgers, shareholder listings and support for other balance sheet and income statement accounts. |  |  |  |
|  | The most current financial projections: monthly for the next year, and annually thereafter |  |  |  |
|  | Revenue analysis and recognition policy and reconciliations |  |  |  |
|  | Sales pipeline, backlog, detailed funnel and historical funnel metrics |  |  |  |
|  | Working capital details |  |  |  |
|  | Cash management information including detailed bank reconciliations and activity for the past two fiscal years and to date. |  |  |  |
|  | Receivables - detailed reconciliation |  |  |  |
|  | Aging analysis |  |  |  |
|  | Credit policies and collection procedures |  |  |  |
|  | Bad debt analysis for the past 2 fiscal years and to date |  |  |  |
|  | Any historical analyses of A/R |  |  |  |
|  | Prepaids - detailed reconciliation |  |  |  |
|  | Inventories - detailed reconciliation |  |  |  |
|  | Short-term investments - detailed reconciliation |  |  |  |
|  | Payablesdetailed reconciliationall transactions with top 10 vendors in the last year |  |  |  |
|  | Deferred liabilities, other commitments to customers - - detailed reconciliation |  |  |  |
|  | Reconciliation and copies of all outstanding leases for real and personal property to which the Company is either a lessor or lessee |  |  |  |
|  | Security interests in personal property, including any UCC filings – list and copies of supporting documents |  |  |  |
|  | Property, plant and equipment details, related depreciation schedules and supporting documentation of significant acquisitions or dispositions of assets |  |  |  |
|  | Copies of all environmental and reclamation assessments and any bonds or sureties posted with respect to the Company’s properties, as well as correspondence and other documentation with government agencies, lenders, insurers, etc. with respect to same.  |  |  |  |
|  | List of offices and copies related agreements |  |  |  |
|  | Reconciliations of other balance sheet items |  |  |  |
|  | Revenue analyses* Summary
* Detailed by customer
* Detailed by market
* Detailed by product
 |  |  |  |
|  | Analysis of COGS and fixed and variable costsSummaryBy product |  |  |  |
|  | Expense analyses by quarter for the last 2 years* By product category
* By cost element
 |  |  |  |
|  | Gross margin analysis by quarter for the last 2 years, by product category |  |  |  |
|  | Copies of any hedging arrangements |  |  |  |
|  | Income tax returns and related correspondence with all tax agencies for the last 7 years |  |  |  |
|  | Other material documentation for sales and other taxes |  |  |  |
|  | Tax disputes, other correspondence with tax agencies |  |  |  |
|  | Financial other - Any other contracts, correspondence or information which could possibly have a material effect on the transaction being contemplated |  |  |  |
|  | Company, Marketing and Product Information:  |  |  |  |
|  | Most current business planStrategicOperational |  |  |  |
|  | Most current financial projectionsFor the next year by monthFor the following year by quarterFor the 3rd year annual |  |  |  |
|  | Company presentations and summariesExecutive summariesCorporate slide decksOther company presentations and summaries |  |  |  |
|  | Performance dashboards and metrics |  |  |  |
|  | Sales and marketing plans and policies |  |  |  |
|  | Standard sales contracts |  |  |  |
|  | Product, service and price schedules |  |  |  |
|  | Product warranty Information (policy, and expense for the past 2 years) |  |  |  |
|  | List of all products & services and pricing  |  |  |  |
|  | Marketing collateral including technical white papers, product and service brochures, data sheets, case studies etc. |  |  |  |
|  | Product plans, specifications, launch plans, product roadmaps.SummaryDetailed |  |  |  |
|  | All market research or marketing studies conducted in the last three years  |  |  |  |
|  | Complete customers list sorted in order of revenue in the last year, and customer management plans |  |  |  |
|  | Customer surveys |  |  |  |
|  | List of the Company's competitors and description of competitive strategySummaryDetailed analyses |  |  |  |
|  | All material licensing agreements, franchises, and conditional sales contracts to which the Company is a party |  |  |  |
|  | Significant partner agreements |  |  |  |
|  | Long-term sales contracts |  |  |  |
|  | Company-financed customer purchase agreements |  |  |  |
|  | Schedule of exports and export compliance |  |  |  |
|  | All press releases for the last two fiscal years plus current year-to-date |  |  |  |
|  | Marketing and product other |  |  |  |
|  | Product Development Information:  |  |  |  |
|  | Product development plans and schedules |  |  |  |
|  | Product development process documentation |  |  |  |
|  | List of third-party product inputs showing total and type of project for each contractor during the previous and current fiscal year, together with material agreements entered into |  |  |  |
|  | Quality assurance programs, policies and sample documents |  |  |  |
|  | Results of any quality audits (internal and external) |  |  |  |
|  | Product development other - Any other contracts, correspondence or information which could possibly have a material effect on the transaction being contemplated |  |  |  |
|  | Manufacturing Operations:  |  |  |  |
| 7.1 | Breakdown by manufacturing site of the products manufactured, personnel employed, number of shifts and capacity. |  |  |  |
| 7.2 | List of major suppliers showing total and type of purchases from each supplier during the last and current fiscal years, indication of which suppliers are sole sources, and contact names and phone numbers |  |  |  |
| 7.3 | List of contract manufacturers or assemblers showing total and type of purchases from each contract manufacturer or assembler during the last and current fiscal years. |  |  |  |
| 7. 4 | Inventory and order policies |  |  |  |
| 7.5 | Process documentation  |  |  |  |
| 7. 6 | Safety, environmental and hazardous materials compliance. Description of any toxic chemicals used in production and manner of storage and disposition. Description of any EPA or other investigation or claim. |  |  |  |
| 7.7 | Manufacturing other - Any other contracts, correspondence or information which could possibly have a material effect on the transaction being contemplated |  |  |  |
|  | IT: |  |  |  |
|  | Diagram of IT network, systems and description. |  |  |  |
|  | Hosting – description and agreements |  |  |  |
|  | Other IT vendor contracts |  |  |  |
|  | Listing of IT staff including training and certifications, access to source code, access to other sensitive information, outsourced part of team |  |  |  |
|  | Description of any major downtime instances in the last year |  |  |  |
|  | Description of firewall protection, and intruder protection systems |  |  |  |
|  | Security on mobile devices |  |  |  |
|  | Security over online payment systems |  |  |  |
|  | Storage and security over sensitive data |  |  |  |
|  | IT other - Any other contracts, correspondence or information which could possibly have a material effect on the transaction being contemplated |  |  |  |
| 9. | Other Material Contracts: |  |  |  |
| 9.1 | Other customer contracts  |  |  |  |
| 9.2 | Documents and agreements evidencing other material financing arrangements, including sale and leaseback arrangements, installment purchases, etc. |  |  |  |
| 9.3 | Other leases  |  |  |  |
| 9.4 | Other supplier contracts |  |  |  |
| 9.5 | Other dealer, franchise and distribution agreements |  |  |  |
| 9.6 | Schedule of all insurance policies in force but not limited to: general liability, property, key persons, D&O, E&O, and product liability. |  |  |  |
| 9.7 | Copies of all insurance policies in the above schedule |  |  |  |
| 9.8 | Any other product development agreements, consulting agreements, and partnership or joint venture agreements  |  |  |  |
| 9.9 | Copies of all royalty agreements payable or receivable  |  |  |  |
|  | Intellectual Property |  |  |  |
|  | List and copies of foreign and domestic patents and patent licenses held by the Company and a list of all patent applications.Summary Detailed |  |  |  |
|  | List of trademarks, trade names, brands or service marks  |  |  |  |
|  | List of copyrights  |  |  |  |
|  | All material agreements for licensing of Company technology to third parties, including related training, support, and maintenance agreements |  |  |  |
|  | All material agreements for licensing of technology from third parties, including related training, support, and maintenance agreements |  |  |  |
|  | If applicable, any documentation related to software IP risk mitigation including: software audits covering software code, third-party software libraries, open-source software components, and other software-related materials that the company uses or has created, to identify any potential infringement of rights and to ensure compliance with all applicable license terms and restrictions.  |  |  |  |
|  | List of proprietary processes and a description of any claimed trade secrets controlled by the Company |  |  |  |
|  | Any legal opinions, infringement reviews or other support for the validity of intellectual property |  |  |  |
|  | IP Other - Any other contracts, correspondence or information which could possibly have a material effect on the transaction being contemplated |  |  |  |
|  | Other Legal: |  |  |  |
|  | A schedule of all litigation or other dispute resolution process to which the Company is a party or in which it may become involved together with documents and information related thereto |  |  |  |
|  | All correspondence from third parties regarding potential infringement of intellectual property rights of others |  |  |  |
|  | Listing and contact details of all law firms used in the last 3 fiscal years to date and what they were used for |  |  |  |
|  | Other Items: |  |  |  |
|  | Any other contracts, correspondence or information which could possibly have a material effect on the transaction being contemplated |  |  |  |