

## DUE DILIGENCE CHECKLIST – LEGAL ISSUES

**INSTRUCTIONS:** Please indicate below, for each item, whether the Company: a) has the item or information, but cannot locate it (first column); b) the Company doesn't have the information available to it (second column); or, c) if the Company has the information, please provide it to us (third column).

If the Company HAS the requested information or item, and its in the form of a **WRITING** (for example, a written lease or an email from a customer with a complaint), please provide a complete copy of the actual writing.

If the Company HAS the requested information or item, and its in **ORAL** format (for example, the terms of an oral employment agreement, or an oral equipment lease), then provide a written summary of that oral information.

This Draft Dated: \_\_\_\_\_

<b>Title of Section and Subsection</b>	<b>Documents Requested</b>	<b>Company Has But Cannot Locate</b>	<b>Company Doesn't Have</b>	<b>Company Has and Will Provide</b>	<b><u>Comments</u></b>
<b>1.</b>	<b>General corporate materials</b>				
1.1	Articles of Incorporation or Articles of Organization.				
1.2	Bylaws or Operating Agreement.				
1.3	Minutes of Meetings or Written Consents of the Board or Shareholders.				
1.4	List of officers and directors.				
1.5	Cap Table (including list of optionees and warrant holders), including number of shares and dates of issuance, and consideration paid.				

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1.6	Stock records, stock ledgers and other evidence of securities authorized and issued.				
1.7	<p>Agreements (both written and oral) relating to the purchase, repurchase, sale or issuance of securities.</p> <ul style="list-style-type: none"> <li>• Warrants, convertible notes, term sheets from prior rounds of funding, term sheets currently under consideration</li> <li>• Stock options</li> </ul>				
1.8	<p>Voting agreements (either among stockholders or between stockholders and the Company).</p> <ul style="list-style-type: none"> <li>• Shareholder buy-sell agreements</li> </ul>				
1.9	Lists of all subsidiaries, parent companies, or “brother-sister” companies.				
1.10	Copies of any private placement memoranda, subscription agreements, stock purchase agreements, etc. with respect to any prior round of funding.				
1.11	Qualifications to do business in states other than the state of incorporation.				
1.12	List all names the Company (or its related companies) have done business under since its formation.				
1.13	Founders Agreements.				

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<b>2.</b>	<b>Litigation.</b>				
2.1	Any litigation, claims or proceedings (threatened or pending). (e.g. employees who may be in breach of non-competes with former employers.)				
2.2	Any litigation, claims, and proceedings settled or concluded in the last three years, including those of any predecessor corporations and subsidiaries.				
2.3	Any litigation (pending, threatened, settled or concluded), concerning bankruptcy, crimes, securities, law, or business practices.				
2.4	Any consent decrees, injunctions, judgments, other decrees or orders, settlement agreements, or similar matters.				
<b>3.</b>	<b>Compliance with Laws.</b>				
3.1	Any citations or notices received from government agencies.				
3.2	Any pending or threatened investigations or governmental proceedings.				

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3.3	All material governmental permits, licenses, etc., of the Company presently in force. Information regarding any material permits, licenses, etc., which have been canceled or terminated.				
<b>4.</b>	<b>Employee Matters.</b>				
4.1	Listing of employees with title and compensation.				
4.2	Management organization chart.				
4.3	Employee agreements.				
4.4	Consulting contracts.				
4.5	Employee handbook(s).				
4.6	Employee benefit and profit-sharing plans, including stock option, stock purchase, deferred compensation, and bonus plans or arrangements.				
4.7	All other employee compensation, bonus, incentive, retirement, benefit (e.g., life or health insurance, medical reimbursement plans, etc.), or similar plans.				
4.8	Employee Non-Compete, Nondisclosure and/or Invention Assignment Agreements				
4.9	Any union contracts, collective bargaining agreements and/or any union organizing activity (if any).				

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4.10	Copies of any non-compete, nondisclosure or invention agreements between any of the Company's employees and prior clients/employers.				
4.11	Any indemnification agreements between the Company and any of its directors, officers, employees or agents.				
<b>5.</b>	<b>Real Property and Personal Property.</b>				
5.1	Deeds.				
5.2	Leases of real property.				
5.3	Other interests in real property.				
5.4	Financing leases and sale and lease-back agreements.				
5.5	Equipment leases.				
5.6	Copies of all appraisals of the Company's real estate obtained within the last three years.				
5.7	Copies of all Phase One or other environmental reports obtained in the last three years regarding any real property used by the Company.				
5.8	Inventory of significant personal property owned or leased by the Company.				

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<b>6.</b>	<b>Intellectual Property Matters.</b>				
6.1	List of all foreign and domestic patents, patent applications, copyrights, patent licenses and copyright licenses held by the Company.				
6.2	List of any trademarks, trademark applications, trade names, or service marks.				
6.3	Claims of infringement or misappropriation by the Company (or its employees/agents) <u>of others'</u> patents, copyrights, trademarks, trade secrets, or other proprietary rights.				
6.4	Claims of infringement or misappropriation by others of <u>the Company's</u> patents, copyrights, trademarks, trade secrets or other proprietary rights.				
6.5	Copies of all agreements <u>in-licensing</u> or acquiring any technology (including without limitation software licenses, patent licenses, or other technology licenses, or any development or joint-development agreements).				

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6.6	<p>Copies of all agreements <u>out-licensing</u> or selling any technology (including without limitation any software licenses, patent licenses, or other technology licenses, or any distribution, OEM, VAR or sales-representative agreements).</p> <ul style="list-style-type: none"> <li>• Copies of all Maintenance Agreements.</li> <li>• Copies of all Software Escrow Agreements.</li> </ul>				
6.7	Description of policies in place to protect intellectual property rights owned by the Company or otherwise used in the Company's business.				
6.8	Any "sponsored research agreement" with respect to any of the Company's technology.				
<b>7.</b>	<b>Debt Financing.</b>				
7.1	All loan agreements, line of credit agreements, letters of credit, and guarantees available to the Company (or, to which the Company is a party), including lease financing, which are currently in effect.				
7.2	List all financial institutions and types of accounts maintained by the Company.				
7.3	Copies of any currently outstanding commitment letters regarding proposed financings or borrowing of the Company.				

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<b>8.</b>	<b>Other Agreements.</b>				
8.1	Marketing Agreements.				
8.2	Franchise Agreements, Joint Venture Agreements, Partnership Agreements.				
8.3	Management and service agreements.				
8.4	Non-compete or nondisclosure agreements binding the Company (or its employees) in favor of third parties.				
8.5	Contracts outside the ordinary course of business.				
8.6	Indemnification contracts and similar arrangements for officers and directors.				
8.7	Agreements between the Company and any of its officers, directors, key shareholders or their affiliated parties.				
8.8	Any agreements with competitors.				
8.9	Any agreements with governmental agencies.				
8.10	Any material insurance arrangements (including property damage, third-party liability, and key employee insurance).				

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8.11	Agreements requiring consents or approvals or resulting in changes in rights in connection with change-of-control transactions.				
8.12	Any agreements with a duration of more than one year, or which require the Company to spend (or under which the Company will receive) more than \$5,000 per year.				
8.13	Any product or service warranties.				
8.14	A copy of the Company's standard purchase order and order acknowledgement forms.				
8.15	List of any significant acquisition or disposition of the Company's assets, mergers or other material transactions completed within the last three years and all documentation relating to those transactions.				
<b>9.</b>	<b>Financial Information.</b>				
9.1	Audited/Unaudited financial statements, including those of any predecessor corporations.				
9.2	Interim financial statements.				
9.3	Any reports, studies and projections prepared by management on the Company's or its subsidiaries' or affiliates' business, financial condition, or planned operations, including business plans.				

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9.4	Any reports and studies prepared by outside consultants on the Company's or its subsidiaries' or affiliates' business or financial condition.				
9.5	Contracts with investment bankers and brokers.				
<b>10.</b>	<b>Tax Matters.</b>				
10.1	Five years' of federal, state and local tax returns, including those of any predecessor corporations.				
10.2	Audit adjustments proposed by the IRS.				
<b>11.</b>	<b>Public Relations and Competition</b>				
11.1	Advertising, marketing, and other selling materials.				
11.2	Web site pages				
11.3	Competitors (identify by nature of business and location; provide any study the company has prepared regarding its competitors)				
<b>12.</b>	<b>Customer Relations</b>				
12.1	Provide details of any customer complaints, customer terminations, warranty claims, threats of customer terminations received within the past 18 months.				

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<b>13.</b>	<b>Insurance</b>				
13.1	Schedule of all policies of insurance or self insurance arrangements (including general liability, products liability, officer and director liability, key man life, medical, worker compensation, disability, automobile), showing for each: deductibles, coverage limits, and other significant terms.				
13.2	A schedule listing any insurance claim in excess of \$50,000 over the last five years.				
13.3	Any reports or correspondence regarding the adequacy of insurance, reservation of rights by an insurance carrier, or denial of coverage.				