

CAPITAL RAISING - DUE DILIGENCE CHECKLIST ¹

I. ORGANIZATIONAL MATERIALS AND CORPORATE MATTERS

1. Articles of Incorporation and bylaws and all amendments thereto or restatements thereof of the Company (including predecessor), subsidiaries and affiliates, or any limited liability company agreement, limited partnership agreement, or equivalent governing documents.
2. A schedule of the Company's locations.
3. List of jurisdictions where the Company or its subsidiaries have substantial contacts; list of jurisdictions in which the Company or its subsidiaries are qualified to do business and evidence of such qualification; pending applications of the Company to register as a foreign corporation in any state in which the Company is not currently qualified to do business.
4. List of subsidiaries, affiliates and minority holdings of the Company.
5. The Company's minute book including all minutes of all meetings of the shareholders, Board of Directors and committees of the Board of Directors of the Company, its subsidiaries and affiliates since inception (including written consents in lieu of meetings and all notices/waivers of notice).
6. List of Board of Directors committees of the Company, its subsidiaries and affiliates.
7. Shareholder records of the Company, its subsidiaries and affiliates.
8. Stock purchase and repurchase agreements.
9. Copies of agreements relating to rights of first refusal and options.
10. Stock restriction agreements.
11. Warrants, Warrant Agreements and other rights to subscribe for securities.
12. Specimen copies of all classes of stock and debt certificates.
13. Voting agreements, voting trusts, proxies etc.
14. Registration rights agreements.
15. Stockholder's agreements.
16. A Certificate of Good Standing from the Secretary of State of the state where the Company is formed.
17. Copies of all applicable lease agreements for all Company offices, warehouse space, or other locations.
18. All press releases issued by the Company since inception.

II. SALES OF SECURITIES OF THE COMPANY, SUBSIDIARIES AND AFFILIATES

1. Documents relating to private placements of securities, including documentation regarding exemptions from, or registrations under, the federal and state securities laws, including the private placement memoranda, investor questionnaires, subscription agreements, proof of purchase of each investment, copy of Form D filed for the transaction and proof of compliance with state law Rule 506 notice filing and fee requirements.
2. List of 5% shareholders of the Company, as well as a complete shareholder list.
3. Documents relating to any future sales of securities.
4. Board resolution approving and authorizing the capital raise and delegating authority to certain officers to prepare documents.
5. Copies of all resolutions approving prior equity or debt issuances.
6. Copies of all evidence of prior securities sales,.

III. BACKGROUND MATERIALS

1. Reports or significant news or magazine stories on the Company, its subsidiaries or affiliates since inception.
2. Federal, State, and foreign tax returns for the Company, its subsidiaries and affiliates, if any, for the past 3 years.
3. Description of any federal, state, local or foreign audits or correspondence from tax authorities.
4. Copies of any tax settlement documents from the IRS from the prior three years.
5. Copies of all employment tax filings from the past three years.
6. Copies of any tax liens.
7. Copies of any tax opinion.
8. Identify and collect documentary support for the MD&A discussion of known trends pertaining to liquidity, capital resources, and results of operations. Disclosure of information that can affect revenues can and should include knowledge of product failures and limitations, where applicable.
9. All available information about competitors.

IV. HUMAN CAPITAL

1. Management and employee contracts.
 - a. Employment, consulting, compensation, confidentiality and non-compete agreements with any employees or independent contractors.
 - b. Employee manual or handbook of policies.
 - c. Collective bargaining or other labor agreements, including any side letters and union contracts of the Company, its subsidiaries or affiliates.
 - d. Insurance contracts (e.g., life, disability, etc.) on any employee.
 - e. List of officers and other key personnel and their salaries, indicating the percentages of their time estimated to be devoted to the Company's business if they are less than full-time employees of the Company.
2. Company organization chart.
3. A list of employees including titles and salaries, and total number of employees in marketing, sales, administration, etc.
4. A description of all employee litigation, claims and disputes as well as labor disputes within the last three years.
5. Benefit and Option Plans.
 - a. All incentive stock option plans and forms of agreements, and amendments thereto.
 - b. All non-qualified stock option plans and forms of agreements, and amendments thereto.
 - c. List of option grants, indicating names of grantees, options exercised and options outstanding.
 - d. 401(K) savings and retirement plan, and amendments thereto.
 - e. Other stock option, deferred compensation, equity participation, profit sharing, bonus, pension, medical, retirement, welfare or other employee benefit plans, if any.

VI. SIGNIFICANT CONTRACTUAL OBLIGATIONS OF THE COMPANY, SUBSIDIARIES AND AFFILIATES

1. Leases.
 - a. All real estate leases.
 - b. All equipment leases.
2. Customer Agreements.
 - a. List of customers accounting for over 10% of revenues and amount and percentage of revenues for each fiscal year for the past five years.

- b. The Company's customer list, indicating the amount of sales to each customer.
3. A list of all products or services.
4. Copies of the Company's standard terms and conditions and samples of invoices.
5. Copies of all complaints or warranty claims.
6. Supplier Agreements.
 - a. Agreements with suppliers of goods, services, equipment and raw materials (contracts, purchase orders, etc.) (including contract manufacturers, raw materials brokers, contract laboratories, domestic and foreign).
 - b. List of suppliers accounting for over 10% of product supply, and dollar amount and percentage of purchases.
 - c. Documents relating to manufacturing and distribution arrangements.
7. Sales rep agreements.
8. Loan Documents.
 - a. Documents relating to any lines of credit on which the Company is obligated (line of credit, note, security agreement, etc.).
 - b. Mortgages on Company-owned facilities.
 - c. Documents relating to any lines of credit on which the Company is obligated (including proposed future borrowings).
 - d. Documents relating to capital lease obligations.
 - e. Any other loan agreements.
9. Contracts between the Company, subsidiaries and affiliates.
10. Insurance policies or summary of coverage from insurance agent or broker property, liability, life, directors and officers indemnification, business interruption, property title, etc.
11. Foreign Revenues.
 - a. Any documents in connection with sales in foreign countries.
 - b. Schedule of non-U.S. revenues by amount and percentage.
 - c. Schedule listing all non-U.S. facilities and employees.
12. Information on Backlog.
13. All material contracts or commitments other than as covered above.

VII. MATERIAL PROPERTY AND ASSETS

1. Deeds and titles to any property owned outright.
2. List of bank accounts.
3. Documents relating to any encumbrances on any property owned outright.
4. Contracts related to construction of facilities, if any.
5. Any recent title or appraisal report with respect to material properties and assets.
6. Results from recent U.C.C. searches.
7. Copies of all U.C.C. filings.
8. A schedule of documents relating to any sales or leases to another party of any Company property, plant or equipment in the prior three years.
9. Copies of all copyright applications and approvals, trademark applications and approvals, and patent applications and approvals.
10. Schedule and summary of any intellectual property records.

VII. ACCOUNTING, LEGAL, ADMINISTRATIVE AND REGULATORY MATTERS

1. Financial statements of the Company, its subsidiaries and affiliates for all fiscal years since inception.
2. Auditor's prior year comment letter issued to management.
3. The Company's general ledger.
4. A schedule of all debt and contingent liabilities.
5. An inventory schedule.
6. Accounts receivable and accounts payable schedules.
7. Copies of any business or asset valuations.
8. A schedule of domestic and foreign patents, trademarks, copyrights and applications.
9. A description of know-how and other unregistered intellectual property.
10. Copies of all consulting agreements, work for hire agreements, licenses, and any assignments of intellectual property.
11. Any documents relating to material write-downs or write-offs of notes or accounts receivable other than in the ordinary course of business.
12. A list of any claims by or against the Company regarding intellectual property.
13. Copies of any governmental licenses, permits, or consents.
14. A description of the Company's marketing plans, budgets, and printed marketing materials.
15. Copies of all insurance policies, including general liability, product liability, errors and omissions, directors and officers, personal and real property, worker's compensation, title insurance, and other insurance.
16. A schedule of the insurance claims history over the prior three years.

17. Accountants' reports and management letters from auditors to the Company and/or its Board of Directors for the last five years.
18. All letters from the Company to the Company's independent public accountants for the past five years regarding certain representations requested by the Company's independent public accountants in connection with their audits of the Company.
18. A list and summary of all threatened or pending litigation matters (and additional information concerning pending litigation and any investigations or proceedings by any governmental agency), including copies of all pleadings, court rulings, etc.
19. Royalty or license agreements.
20. Documentation (including all necessary permits) relating to governmental or environmental matters, including hazardous substances.
21. All filings, reports, registration statements, correspondence, complaints, consent decrees, determination orders, etc., relating to federal regulatory agencies, and all state local agencies performing similar functions, including but limited to:
 - a. Securities and Exchange Commission (i.e. reports on Form 10-K, 10-Q, 8-K, copies of all registration statements filed by the Company or its predecessor, etc.)
 - b. Environmental Protection Agency.
 - c. Copies of any environmental audits.
 - d. A list of hazardous substances used or handled by the Company.
 - e. Copies of all environmental permits and licenses.
 - f. A list of any environmental litigation or investigations.
 - g. Equal Employment Opportunity Commission.
 - h. Occupational Safety and Health Administration.
 - i. Internal Revenue Service and state revenue departments, including all federal and state tax returns filed since inception and the results of any IRS audit or inquiries.
 - j. Health and Human Services.
 - k. Other (e.g., Department of State, Department of Justice, Federal Trade Commission, Department of Labor, Department of Commerce).
 - l. Any other Federal, State or local regulatory agencies applicable to the Company's business.
 - m. Schedule of government licenses, permits, permissions, approvals and the like, including under local zoning and other land-use regulations.
22. All correspondence and documents relating to material contingent liabilities.

VIII. DIRECTORS AND OFFICERS OF THE COMPANY

1. Director and officer questionnaires if requested.
2. Officer or director loans or guarantees to or from the Company or any related entity.
3. All documentation on related party transactions since inception.
4. All contracts or agreements with or pertaining to the Company and to which directors, officers or owners of more than 5% of the stock of the Company or their affiliates are parties.
5. Any documents relating to any other transactions between the Company and any director, officer or owner of more than 5% of the stock of the Company or their affiliates.
6. All documents pertaining to any receivables from or payables to directors, officers or owners of more than 5% of the stock of the Company or their affiliates.

IX. MISCELLANEOUS

1. Documents relating to any future facilities expansion or acquisitions.
2. Schedule of sales and income as a percentage of total sales and income for last three fiscal years.
3. Correspondence and documentation pertaining to potential mergers or acquisitions by the Company, its subsidiaries and affiliates, whether or not definitive, binding or consummated.
4. Internal financial budgets and projections and business plans, capital expenditure budgets, and reviews of or comparisons with actual results for evaluation of current projections.
5. Any other documents or Information which, in your judgment, are significant with respect to any portion of the business of the Company or which should be considered and reviewed in making disclosures regarding the business and financial condition of the Company.

Note: 1 Due Diligence Checklist compliments of :
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