

Due Diligence Index

for SampleCo

Section	
1. Basic corporate documents	
(a)	Legal entity structure, including name, physical location and function of all divisions or subsidiaries of SampleCo.
(b)	Certificate of Incorporation, including all amendments.
(c)	By laws, including all amendments.
(d)	Minutes of all meetings of board of directors, committees of the board and stockholders, including copies of notices of all such meetings where written notices were given and all written waivers of required notices during the past [three] years.
(e)	All written consents of directors or stockholders during the past [three] years.
(f)	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.
(g)	List of states and foreign countries in which the Company or any subsidiary contemplates undertaking business operations, either directly or through other parties.
(h)	Samples of common and preferred stock certificates, warrants, options, debentures and any other outstanding debt or equity securities.
(i)	The Company's stock books.
2. Stockholder information.	
(a)	Schedules setting forth all issuances or grants of stock and options by the Company, listing the names of the issueses or grantees, the amounts issued or granted, the dates of the issuances or grants, and the consideration received by the Company in each case.
(b)	Lists of all current owners of shares, including address, number of shares owned, dates of issuance and full payment and applicable stop transfer orders or restrictive legends.
(c)	Same information as specified in No. 3(b) above for holders of any other outstanding securities.
(d)	List of all options and warrants currently outstanding, including date of grant, exercise price, number of shares subject to option, 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 which have been used for sales of capital stock and any related documents.
(d)	Any other agreements relating to sales of securities by the Company, including any private placement memoranda or other offering circulars.
(e)	Any agreements and other documentation (including related permits) relating to repurchases, redemptions, exchanges, conversions or similar transactions involving the Company's securities, including Stock Transfer Agreements.
(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, stockholder 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 or its subsidiaries.
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.
(f)	Material contracts (over \$25,000) with suppliers 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.
(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 or employees (including consulting and employment contracts), 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 consultants, distributors, OEMs, dealers and sales representatives.
(n)	Indemnification agreements.
(o)	Research and development agreements.
(p)	All royalty agreements, or proposed royalty 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)	Other material contracts.
5. Products, manufacturing and competition	
(a)	List of principal products with short descriptions of products.
(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)	List of other major suppliers and contract manufacturers.
(e)	Copies of any non-competition agreements of the Company or employees.
(f)	List of the customers of the Company, the sales to whom constitute at least five percent of all previous (including beta customers) sales to date, indicating the types of products and the amounts of each purchased.
(g)	Samples of marketing and sales literature used for current products.
(h)	List of any trademarks, tradenames, service marks or copyrights used in the Company's business.
(i)	Permits for conduct of business, including licenses, franchises and concessions, if any.
(j)	List of service and support contracts.

(k)	Company-financed customer purchase agreements.
(l)	Price lists, catalogues and brochures for the Company's products.
(m)	Market research and other marketing studies.
(n)	Forms of warranties and guarantees provided to customers.
(o)	List of major risks, in rough priority, of technical problems or limitations which current and planned product lines may encounter.
6. Government Regulations	
(a)	All certificates, permits, etc., evidencing compliance with specific regulations, including environmental and workers' health and safety regulations.
(b)	Copies of Federal, state, local and foreign income tax returns since inception and the status of each.
7. Litigation and audits	
(a)	All letters which have been sent to the auditors in connection with the current audit and any subsequent letters sent during the remainder of the audit, including "litigation letters," and all such letters sent in connection with audits for the last three fiscal years.
(b)	All management letters or special reports from the auditor and responses thereto concerning internal accounting controls in connection with the current audit and the audits for the last three fiscal years.
(c)	List of active litigation matters, including letters asserting claims, complaints, answers, etc.
(d)	Settlement documents, if any.
(e)	Decrees, order and judgments of courts or governmental agencies with respect to the Company.
(f)	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.
(g)	List of pending, asserted or threatened lawsuits or other claims or investigations, together with short summary of the claims and related facts.
(h)	Information regarding any material litigation to which the Company is a party or in which it may become involved.
8. 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 persons who have not signed such agreements.
(e)	Copies of forms of employment agreements and consulting agreements.
(f)	Employee benefit, pension, retirement, bonus or profit sharing, and deferred compensation plans.
(g)	Summary of standard employee benefits (vacation, sick leave, sabbatical, medical insurance, life and disability insurance, etc.)
(h)	Form of agreements with all sales representatives, both foreign and domestic. Copies of sales commission plans for the current fiscal year.
(i)	Copies of sales commission plans for the current fiscal year.
(j)	Description of all management perquisites.
(k)	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.
(l)	Description of commissions paid or to be paid to managers, agents, or other employees for the last fiscal year.
(m)	Founders Agreements, management employment agreements, indemnification agreements, and

	"golden parachute" and other change of control or severance agreements, if any.
(n)	Summary of worker's compensation claims made.
(o)	Personnel policies, manuals and handbooks.
(p)	Number of employees by department.
9. Employee Benefits	
(a)	Copy of group health plan document and Summary Plan Description (SPD).
(b)	Copy of Section 125 Plan document and SPD (include dependent care plans, health flexible spending accounts, etc.)
(c)	Copy of COBRA notice and notice procedures.
(d)	Copy of retiree health plan.
(e)	Copy of severance plan or severance agreements.
10. 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)	Most current balance sheet with audited year end comparison data.
(d)	Most current interim income statement.
(e)	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.
(f)	Cash report and cash flow projections.
(g)	All audited financial statements for the past three years and unaudited interim financial statements covering each completed quarter of the current fiscal year.
(h)	Financial statements for past three fiscal years, and interim financial statements covering each completed quarter of current fiscal year.
(i)	Quarterly projected financial statements for the next three fiscal years.
(j)	Quarterly analyses of sales and cost by major market segments/service lines for the current year to date and the next three fiscal years.
(k)	Reserves analyses as of the end of the last fiscal year and last fiscal quarter.
(l)	Current FY comparison of budget to actual (summary and detail).
(m)	Current FY budget and year to date comparison of budget to actual (summary and detail).
(n)	List of all recorded or unrecorded contingent liabilities as of the end of the last year and at the latest available date.
(o)	Capital budget.
(p)	Cash report and cash flow projections.
(q)	Brief description of cash investment practices and policies and status of current cash balance investments.
(r)	Brief description of any foreign currency transactions, practice and policies.
11. 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 SampleCo 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 SampleCo's business activities.
	(i) Market research, marketing studies, long- and short-term strategic plans, valuation analyses prepared by SampleCo or third parties for SampleCo in last 2 years.
12. Property	
	(a) List, with brief description, of real and material personal property owned by the Company or any subsidiary.
	(b) List of all foreign and domestic patents, copyrights, trademarks and service marks and licenses held or granted by the Company for the foregoing. Copies of all applications made to register such proprietary rights. List of inventions for which application is to be filed but is not yet prepared.
	(c) List of proprietary processes controlled by the Company and other trade secrets.
	(d) Documents pertaining to or describing Company's policies regarding trade secrets and proprietary information.
	(e) List of licensing agreements with technology rights granted to the Company, and copies of such agreements (both software and hardware based).
	(f) List of technology agreements with technology rights granted by the Company, and copies of such agreements.
	(g) List of data processing agreements and software licenses for internal use.
	(h) Law firm handling patent, trademark and copyright matters for the Company or any subsidiary and contact person.
13. Employee Benefit Plan Matters	
	(a) List of any employee benefit plans sponsored or maintained by or for SampleCo, 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 SampleCo:
	(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 latest financial statement issued by each plan trustee;
	(4) Copies of the two most recent Forms 5500, including all schedules, attachments and audit reports, if any;
	(5) Copies of any third-party funding contracts, including insurance contracts, investment fund contracts, investment management agreements;
	(6) Copies of the most recent summary of plan accounts prepared by the plan record keeper, 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, unrevoked determination letter 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.
	(c) With respect to each welfare benefit plan sponsored or maintained by SampleCo (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, 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 two years;
	(4) Copy of COBRA notice forms 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.
14. Facilities, Permits and Environmental Matters	
	(a) List, with brief description, of all material personal property owned, leased or otherwise used by SampleCo.
	(b) List of all facilities currently owned, leased or otherwise used by SampleCo, 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).
	(c) List of all facilities formerly owned, leased or otherwise used by SampleCo, 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).