

[Name and address of Target's Counsel]

Dear [Attorney]:

The following is a list of certain documents that we would like to review in connection with the proposed acquisition of [Name of Target] (the "Company"). During the course of our due diligence review, additional documents meeting the specifications of the following list may come into existence. If this occurs, we ask that copies of such documents be forwarded to us. In addition, it is likely that some of the items requested do not exist or are not applicable to the Company. If this is the case, **please so indicate in your response as set forth in this request.** We further ask that all responses to this memorandum be in writing and directed to the attention of [Attorney's name and firm's address].

Whenever we have requested a document with respect to the Company, such document also should be furnished with respect to any subsidiaries, affiliates, predecessors or acquisition candidates of the Company that are or are expected to be significant. In addition, please provide draft documents whenever final documents have not yet been executed.

	<u>Previously Provided</u>	<u>Provided Herewith</u>	<u>To Be Provided</u>	<u>N/A</u>
(1) Governing Instruments; Minutes of Board and Stockholder Actions:				
a. Certificate of Incorporation and Bylaws of the Company, as amended to date.	☐	☐	☐	☐
b. Minutes of the Board of Directors, any committees of the Board of Directors and the stockholders of the Company, including, to the extent available, all materials distributed to attendees of any such meetings.	☐	☐	☐	☐
c. All written consents of the Board of Directors and stockholders.	☐	☐	☐	☐
d. Notices of all meetings of the Board of Directors and stockholders.	☐	☐	☐	☐
e. Stock books, stock ledgers and other records of stock issuances of the Company.	☐	☐	☐	☐

	<u>Previously Provided</u>	<u>Provided Herewith</u>	<u>To Be Provided</u>	<u>N/A</u>
f. A list of the states and countries in which the Company is or is expected to be qualified to do business.	☐	☐	☐	☐
g. Company organization charts and management organization charts including title, function and responsibility.	☐	☐	☐	☐
h. All documents relating to any restructuring of the Company, including merger agreements, acquisition agreements and all correspondence with stockholders of any predecessor companies regarding such restructuring.	☐	☐	☐	☐
i. All business plans of the Company.	☐	☐	☐	☐
(2) Securities Matters; Stockholder Communications:				
a. Schedules setting forth all issuances or grants of stock, options and other equity securities of the Company, listing the names of the issuees 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. Schedules of current record and beneficial owners of shares of stock of the Company, including addresses, tax identification numbers and number of shares owned, including the number of vested and unvested shares and the vesting schedules.	☐	☐	☐	☐
c. Schedules of all options and warrants currently outstanding, including names and addresses of the holders, tax identification numbers, the number of options/warrants held by each, the exercise prices and vesting schedules. Indicate if vesting of any such options/warrants will accelerate in connection with a merger or change of control of the Company.	☐	☐	☐	☐
d. Agreements relating to the purchase or sale by the Company of securities (equity or debt), including stock option plans,	☐	☐	☐	☐

	<u>Previously Provided</u>	<u>Provided Herewith</u>	<u>To Be Provided</u>	<u>N/A</u>
stock options agreements and registration rights.				
e. Any stockholder, voting, right of first refusal, registration or other agreement with respect to the capital stock of the Company.	☐	☐	☐	☐
f. All subscription agreements and other documents relating to the issuance of securities by the Company.	☐	☐	☐	☐
g. All legal opinions given in connection with the offer or sale of any securities of the Company, including issuances of securities in mergers and acquisitions.	☐	☐	☐	☐
h. Permits or other state or Federal securities law filings for issuance or transfer of the Company's securities, including Form D's and all other forms filed to qualify for an exemption under the Securities Act and/or blue-sky laws, including all correspondence and memoranda related thereto.	☐	☐	☐	☐
i. The stock books of the Company and samples of stock certificates.	☐	☐	☐	☐
j. All communications with stockholders, including, but not limited to, information statements.	☐	☐	☐	☐

(3) Present Indebtedness:

a. A schedule summarizing short-term and long-term debt (including inter-company debt) and capital lease obligations of the Company (setting forth the obligor, the lender, principal amounts outstanding, interest rates and maturity dates, or, in the case of capital lease obligations, payment schedules, for each item).	☐	☐	☐	☐
b. All agreements and other documents evidencing, securing or otherwise relating to any outstanding or proposed indebtedness of the Company or any	☐	☐	☐	☐

	<u>Previously Provided</u>	<u>Provided Herewith</u>	<u>To Be Provided</u>	<u>N/A</u>
indebtedness of any person as to which the Company may be a surety or guarantor, or as to which it might otherwise become liable.				
c. All agreements and letters confirming available or outstanding lines of credit.	☐	☐	☐	☐
d. All correspondence with lenders, including all compliance reports submitted by the Company or its public accountants.	☐	☐	☐	☐
e. Schedule of all liens and encumbrances against the Company's assets or stock.	☐	☐	☐	☐

(4) Contracts; Material Information:

a. All agreements relating to acquisitions, dispositions or mergers that have been effected or proposed by the Company. Please include all due diligence summaries, executive summaries, and financial analyses prepared by the Company in connection with such acquisitions, dispositions or mergers.	☐	☐	☐	☐
b. All documents relating to joint ventures, partnerships and consulting agreements to which the Company is currently a party or anticipates becoming a party.	☐	☐	☐	☐
c. Schedule of all licensing agreements (sorted by in-bound and out-bound licenses) and technical cooperation agreements. Provide copies of each agreement.	☐	☐	☐	☐
d. All research and development agreements.	☐	☐	☐	☐
e. All employment, consulting or severance agreements between the Company and members of the Board of Directors or management of the Company.	☐	☐	☐	☐
f. All contracts with major manufacturers, suppliers, distributors and customers.	☐	☐	☐	☐

	<u>Previously Provided</u>	<u>Provided Herewith</u>	<u>To Be Provided</u>	<u>N/A</u>
g. Schedule of major competitors by product.	☐	☐	☐	☐
h. All agreements between the Company and any health care practices affiliated or doing business with the Company.	☐	☐	☐	☐
i. All agreements relating to restrictions upon competition or restricting or purporting to restrict the ability of the Company to engage in any type of business or to operate in any geographic area.	☐	☐	☐	☐
j. All agreements with any government or government agency.	☐	☐	☐	☐
k. All secrecy, confidentiality and nondisclosure agreements of the Company.	☐	☐	☐	☐
l. All material contracts made otherwise than in the ordinary course of business.	☐	☐	☐	☐
m. Any other material contract to which the Company is a party and any other documents containing any restrictions on financing, borrowing or the issuance or offering of any securities of the Company.	☐	☐	☐	☐
n. Any agreement containing provisions regarding a "change of ownership or control" of the Company.	☐	☐	☐	☐

(5) Insider Transactions:

a. All agreements or contracts, including a description of any transaction, between the Company and any officer, director, stockholder or affiliate, or a member of the immediate family of any officer, director or stockholder of the Company, or any other entity controlled by an officer, director or stockholder of the Company.	☐	☐	☐	☐
b. All documents relating to any loans made or contemplated by the Company to, or guarantees made by the Company on behalf of, any officer, director, stockholder	☐	☐	☐	☐

	<u>Previously Provided</u>	<u>Provided Herewith</u>	<u>To Be Provided</u>	<u>N/A</u>
or affiliate, or a member of the immediate family of any officer, director or stockholder of the Company, or any other entity controlled by an officer, director or stockholder of the Company.				

(6) Legal Proceedings and Compliance:

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|---|-----|-----|-----|-----|
| a. List of all legal, arbitration or administrative proceedings or investigations to which the Company is or was a party, together with the name of the court or agency, the date instituted, principal parties thereto, a description of the factual basis alleged to underlie the proceedings or investigations and the relief sought. Please include similar information as to any such proceedings, investigations or claims known to be contemplated or threatened by any private or governmental authority. | [] | [] | [] | [] |
| b. Documentation and pleadings relating to any lawsuit, including names and addresses of all law firms handling the litigation. | [] | [] | [] | [] |
| c. Schedule of all consent decrees, judgments, settlements and other dispositions of any legal, arbitration or administrative proceeding pursuant to which the Company has continuing or contingent obligations of a material nature or requiring or prohibiting future activities. | [] | [] | [] | [] |
| d. Correspondence, memoranda or notes concerning any dispute with any employee, supplier, competitor or customer regarding any claim for an amount in excess of \$10,000 or any claim or potential claim as to the licensing or use of technology. | [] | [] | [] | [] |

	<u>Previously Provided</u>	<u>Provided Herewith</u>	<u>To Be Provided</u>	<u>N/A</u>
e. Correspondence between the Company or the Company's attorneys and auditors regarding threatened or pending litigation, claims or assessments.	☐	☐	☐	☐
f. Correspondence, memoranda or opinions of the Company's attorneys as to any pending or threatened litigation against the Company.	☐	☐	☐	☐
g. Correspondence, memoranda or notes concerning contract violations.	☐	☐	☐	☐
h. Correspondence, memoranda or notes regarding any claim or potential claim involving the prior employment or inventions of any employee or consultant of the Company.	☐	☐	☐	☐
i. Correspondence, memoranda or notes regarding any claim or potential claim involving a key supplier, distributor or customer of the Company.	☐	☐	☐	☐
j. Correspondence, memoranda or notes concerning inquiries from federal or state governmental entities or any other agency regarding compliance with any law, rule or regulation.	☐	☐	☐	☐
k. Opinions or other assessments of the Company's attorneys concerning the potential effects of any significant proposed or pending change in any state or federal law, rule or regulation.	☐	☐	☐	☐
l. Correspondence with, and the Company's attorneys' responses to, audit inquiries from accountants.	☐	☐	☐	☐
m. Documentation relating to compliance with health, safety and civil rights laws.	☐	☐	☐	☐
n. Settlement documents and release agreements.	☐	☐	☐	☐

	<u>Previously Provided</u>	<u>Provided Herewith</u>	<u>To Be Provided</u>	<u>N/A</u>
(7) Employee/Labor Matters:				
a. List of all employees, including each employee's address, social security number, job title, location, hire date and base salary.	☐	☐	☐	☐
b. Schedule of compensation paid to officers, directors and key employees (salary, benefits, bonuses, noncash compensation).	☐	☐	☐	☐
c. All collective bargaining contracts with any unions or other organizations representing employees of the Company.	☐	☐	☐	☐
d. All retirement plans or other benefit plans provided for employees of the Company, including any employee profit sharing, bonus, stock option or other similar incentive plans.	☐	☐	☐	☐
e. Employment, noncompetition or other agreements with employees, including noncompetition or similar agreements between any key employee and a party other than the Company.	☐	☐	☐	☐
f. All written employee policies, guidelines and rules.	☐	☐	☐	☐
g. Correspondence, memoranda or notes regarding any labor or employment disputes.	☐	☐	☐	☐
h. Copies of all releases executed by employees in the past three years.	☐	☐	☐	☐
i. A description of any and all strikes, lockouts, slow downs and other labor disruptions at any of the Company's facilities and any claim of unfair labor practices or petitions filed with the National Labor Relations Board with respect to workers at the Company's facilities.	☐	☐	☐	☐
j. Employee turnover analysis: turnover by function for last two years, itemization of	☐	☐	☐	☐

	<u>Previously Provided</u>	<u>Provided Herewith</u>	<u>To Be Provided</u>	<u>N/A</u>
management losses and reason for departure.				
k. Biographies/resumes of key personnel.	☐	☐	☐	☐
(8) Customers/Suppliers:				
a. Schedule of current customers by geography and type of customer.	☐	☐	☐	☐
b. List of top 25 customers, including length of relationship and annual revenues received from such customer in the last three years.	☐	☐	☐	☐
c. Schedule of major suppliers, distributors and manufacturers.	☐	☐	☐	☐
(9) Products and Services:				
a. A description of all products created, manufactured, licensed, sold or distributed by the Company, including software products, whether such manufacture, license, sale or distribution is currently being provided, was provided in the past or is currently contemplated (collectively, the "Products").	☐	☐	☐	☐
b. All warranty agreements relating to the Products.	☐	☐	☐	☐
c. Schedule of percentage of sales by each major Product for the last three years and forecasts for the current year.				
d. List of new Products which are expected to be introduced in the next two years and a forecast of revenues for these Products.	☐	☐	☐	☐
e. A description of all services provided by the Company, whether such services are currently being provided, were provided in the past, or are currently contemplated (collectively, the "Services").	☐	☐	☐	☐

	<u>Previously Provided</u>	<u>Provided Herewith</u>	<u>To Be Provided</u>	<u>N/A</u>
(10) Software:				
a. For each software product used at any time by the Company to develop Products, and all third party software that is or has been licensed, used or possessed by the Company, please: (a) identify such software product and the owner or licensor of such product, (b) identify the number of copies of such software used, (c) identify all independent contractors and other third parties who have or have had access to the Company's copies of such software, and (d) state the number of employees who have access to such software. Provide copies of all agreements to which the Company is a party relating to such software.	[]	[]	[]	[]
b. Identify (by product name, product version and owner) all third party software that is or has been distributed along with Products and Services and describe the circumstances under which such third party software is or was so distributed. To the extent not previously provided, provide copies of all agreements granting the Company the right to distribute such software.	[]	[]	[]	[]
c. For any software and documentation used by or in the possession of the Company, but not owned by or licensed to the Company, state the basis for the Company's right to use or possess such materials.	[]	[]	[]	[]

(11) Intellectual Property Rights Generally:

For purposes of this request list, the term "Intellectual Property" means any United States or foreign letters patent, patent application, trademark, trade name, service mark, brand name, logo, other trade designation (including unregistered names and marks), trademark and service mark registration or application, copyright, copyright registration or application, invention, trade secret, software, computer program or source	[]	[]	[]	[]
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	<u>Previously Provided</u>	<u>Provided Herewith</u>	<u>To Be Provided</u>	<u>N/A</u>
code, engineering know-how, and customer or supplier information.				
a. Copyrights.	☐	☐	☐	☐
1. Schedule of all United States and foreign copyright registrations (and applications therefor) owned by the Company.	☐	☐	☐	☐
2. Identify all licenses granted by the Company relating to Products and Services, including customer licenses, and provide copies of each identified license.	☐	☐	☐	☐
3. For any copyrighted work identified pursuant to 1. above that is not owned by or licensed to the Company, state the basis for the Company's right to use the work.	☐	☐	☐	☐
b. Trademarks/Service marks.	☐	☐	☐	☐
1. List all trademarks/service marks, trademark/service mark registrations or pending applications owned by the Company (both foreign and domestic).	☐	☐	☐	☐
2. List all unregistered trademarks used by the Company in connection with the marketing, promotion and sale of the Products and Services.	☐	☐	☐	☐
3. List all tradenames used by the Company.	☐	☐	☐	☐
c. Patents.	☐	☐	☐	☐
1. Identify all patented and patent-applied-for technology relating to Products and Services, including copies of the Company's file history for each identified patent or patent application owned by the Company and all related ownership and license documents.	☐	☐	☐	☐

	<u>Previously Provided</u>	<u>Provided Herewith</u>	<u>To Be Provided</u>	<u>N/A</u>
2. For each of the identified patented and patent-applied-for technologies, identify all related patents and patent applications, domestic or foreign, and identify the ownership of the patents and patent applications, including the chains of title of each.	☐	☐	☐	☐
3. For each identified patent or patent application, provide the name of each inventor and prosecuting attorney.	☐	☐	☐	☐
4. Identify all patent licenses granted to the Company or by the Company relating to any Product or Service and provide copies of each identified license and the Company's file relating to each identified license, including copies of all royalty and similar reports.	☐	☐	☐	☐
5. For each identified patent not owned by or licensed to the Company, state the basis for the Company's right to use each such patent.				
6. Identify each patent of any third party of which the Company knows may be or become the subject of a claim of patent infringement by the holder of such patent with respect to any of the Products or Services.	☐	☐	☐	☐
d. Other Intellectual Property.	☐	☐	☐	☐
1. To the extent not identified above, identify all Intellectual Property used in connection with the Products and Services, together with any documentation thereof.	☐	☐	☐	☐
2. Describe the Company's activities involving export compliance for the Products.	☐	☐	☐	☐
3. With respect to each country in which Products have been delivered, directly or indirectly, or Services provided,				

	<u>Previously Provided</u>	<u>Provided Herewith</u>	<u>To Be Provided</u>	<u>N/A</u>
state what actions have been taken to protect the Company's Intellectual Property and provide copies of all documents regarding such efforts.				
4. Identify and provide copies of all source code/technical material escrow agreements to which the Company is either a party (whether as licensor or beneficiary) or a third party beneficiary related to any of the Products or Services.	☐	☐	☐	☐
5. List any proprietary process controlled by the Company and other trade secrets.	☐	☐	☐	☐
6. Identify and provide copies of the Company's current policies and practices with respect to protecting its Intellectual Property.	☐	☐	☐	☐
7. Provide any correspondence from third parties regarding potential infringement of the Intellectual Property rights of others.	☐	☐	☐	☐

(12) Intellectual Property Agreements:

a. Identify all other agreements and contracts to which the Company is a party or is bound relating to the ownership, use or exploitation of any Intellectual Property, together with copies thereof, including any security agreements, maintenance agreements, royalty agreements or other payment obligations.	☐	☐	☐	☐
b. Identify all marketing, license, sales, franchise, reseller and distribution materials or agreements that have been used by the Company to market, license, sell, franchise, resell or distribute any of the Intellectual Property relating to Products and Services together with copies thereof.	☐	☐	☐	☐

	<u>Previously Provided</u>	<u>Provided Herewith</u>	<u>To Be Provided</u>	<u>N/A</u>
c. Copies of (i) assignment of inventions agreements and (ii) confidentiality/nondisclosure/proprietary information agreements with employees, consultants or other persons.	☐	☐	☐	☐

(13) Financial Matters:

a. Accountants' reports to management.	☐	☐	☐	☐
b. Audited financial statements (balance sheet, income statement, statement of cash flows and statement of changes in financial position) since the date of inception. If audited financial statements are unavailable, please supply unaudited financial statements.	☐	☐	☐	☐
c. List of banks or other lenders with whom the Company has a financial relationship, including a brief description of such relationship.	☐	☐	☐	☐
d. Any current internal financial projections (profit and loss, cash flow, capital expenditures, etc.), forecasts or budgets.	☐	☐	☐	☐
e. All letters from the Company's independent public accountants to the Company regarding control systems, methods of accounting, etc. of the Company and any management replies thereto.	☐	☐	☐	☐

(14) Tax Matters:

a. Correspondence, memoranda or notes concerning inquiries from state or federal tax authorities.	☐	☐	☐	☐
b. Federal and state tax returns for the last three years.	☐	☐	☐	☐
c. Forms 940 and 941 for current year and payroll registers related thereto; details concerning stock option exercises (taxable spread, taxes withheld and remitted).	☐	☐	☐	☐

	<u>Previously Provided</u>	<u>Provided Herewith</u>	<u>To Be Provided</u>	<u>N/A</u>
d. Change in control (“golden parachute”) agreements with senior management.	☐	☐	☐	☐

(15) Regulatory Matters:

a. All regulatory filings, licenses, permits, consents and regulatory approvals required to enable the Company to conduct its business.	☐	☐	☐	☐
b. Material correspondence, if any, alleging violations of or requesting compliance by the Company with any law, regulation, etc. or requests for information pursuant to interstate commerce laws, antitrust laws, securities laws, environmental laws, worker safety laws (OSHA), etc.	☐	☐	☐	☐

(16) Real Property:

a. All deeds and other real property title documents.	☐	☐	☐	☐
b. Documentation regarding the purchase or transfer of real property.	☐	☐	☐	☐
c. All leases and subleases of real property.	☐	☐	☐	☐
d. All leases for personal property, including significant manufacturing equipment, computer hardware and other equipment, furniture and automobiles.	☐	☐	☐	☐
e. Itemized list of all easements, liens, restrictions, violations, covenants and agreements of any kind affecting any property owned or leased by the Company, together with copies thereof.	☐	☐	☐	☐

(17) Environmental Matters:

a. Environmental surveys or reports prepared by consultants on behalf of the Company.	☐	☐	☐	☐
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	<u>Previously Provided</u>	<u>Provided Herewith</u>	<u>To Be Provided</u>	<u>N/A</u>
b. Any material documents pertaining to any orders or investigations involving the Company by any environmental regulatory or administrative body.	☐	☐	☐	☐
c. All environmental reports and any other memoranda, letters or documentation relating to compliance with environmental laws.	☐	☐	☐	☐
d. A schedule of the estimated capital expenditures for environmental control facilities for the remainder of the current fiscal year and for the next two succeeding fiscal years for the Company.	☐	☐	☐	☐
e. A schedule of reserves established by the Company for loss contingencies in connection with remediation or other environmental matters.	☐	☐	☐	☐

(18) Insurance:

a. A schedule or summary description of all insurance policies that the Company has in effect as of the date hereof or expects to be in effect in the future.	☐	☐	☐	☐
b. Copies of all agreements or documents relating to the Company's insurance policies.	☐	☐	☐	☐

(19) Miscellaneous:

a. All news releases and corporate advertising, marketing or other product literature utilized during the last twelve months and those proposed to be utilized in the future.	☐	☐	☐	☐
b. Any internal operations manuals currently in use.	☐	☐	☐	☐

	<u>Previously Provided</u>	<u>Provided Herewith</u>	<u>To Be Provided</u>	<u>N/A</u>
c. A list of any plans for any acquisitions, dispositions, mergers or consolidations, including previous negotiations or discussions held with respect thereto, or any changes in the business or products of the Company.	☐	☐	☐	☐
d. Analyses of the Company or its industry prepared by investment bankers, management consultants, engineers, accountants or others, including other types of reports (financial or otherwise) or memoranda relating to broad aspects of the business, operations or Products of the Company.	☐	☐	☐	☐
e. Any material reports filed with governmental agencies.	☐	☐	☐	☐
f. Description of any backlog of orders for Products or Services.	☐	☐	☐	☐
g. Any written presentations to securities analysts.	☐	☐	☐	☐
h. All audit reports covering pension, retirement or employee benefit plans of the Company.	☐	☐	☐	☐
i. Indemnification agreements with officers and directors.	☐	☐	☐	☐
j. Any other document or information which, in your judgment, is significant with respect to the business of the Company or which should be considered and reviewed in making disclosures to prospective investors regarding the business and financial condition of the Company.	☐	☐	☐	☐