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DUE DILIGENCE CHECKLIST

The list below includes far more than what is typically needed in a small business transfer. Excess documentation can greatly slow a process, and adds complexity to a transaction. We suggest that you consider making two due diligence document requests.

1. Documents that you need copies of for third party review (e.g. leases, contracts, tax returns)
2. Documents that you wish to review with the owners, but do not necessarily need copies of. (e.g. employee files, software licenses, service agreements)

Corporate Organization Documents & Agreements

Copy of all appropriate business licenses

- Sales tax certificate
- Plumbing license and code license
- License required by State of Texas
- Copy of all insurance policies
- Liability
- Workman's Comp
- Health

Article of Incorporation of all Corporations
By Laws of all Corporations

Any agreements made by any corporation(s)

- Warranties
- Indemnifications
- Leases
- Guaranties
- Suppliers
- Instruments of indebtedness or lines of credit
- Security agreements
- Deed of Trusts
- Loans made by the Companies

Taxation

Any and all correspondence concerning any taxing authority
Income Tax for past 5 years

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Initiation or termination of a dispute with a relevant government authorities regarding taxation
Information regarding tax audits

Financial Data

All audited or unaudited financial statements of the companies for the past 5 years
All reports and management letters from auditors to the companies or management for the past 5 years

Competition

List of all competitors – approximate volume, number of employees, key customers, years in business, summary of their strengths and weakness
List of potential competitors in other markets that might have or do have plans to enter the company's current market

Management & Employees

Any and all written employment manual or other literature regarding terms and conditions of employment furnished to employees in general.

All employment agreements

Contracts

Loans

Expense Allowance

List of Employees and Management – length of service, pay scale

Pension Plans or retirement plans

Bonus Plans

Profit Sharing

Medical reimbursement

Policies for Severance, Insurance, Holiday, Vacation and sick leave

Union agreements

Government Regulations

Copy of all License and past and future requirements by Federal, State and Local Government and Agencies

Files documenting EEOC, NLRB, ERISA, and OSHA.

All reports, notices or correspondence relating to any purported violation or infringement by the companies, including, but not limited to, government regulations, code regulations, antitrust or trade practices, equal opportunity, occupational safety and health and environmental protection.

All Trademark and Registrations.

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Litigation

List of all pending or threatened litigation or government investigations, including parties, damages and other remedies sought, nature of action, amount of insurance and whether any insurer as disclaimed coverage.

All pleading and other material documents relating to any litigation, including product liability.

List of all orders, writs, decrees, injunctions, judgments, or rulings by any court or agency which may bind the companies or any subsidiary.

Correspondence from attorneys to auditors concerning litigation and other legal proceeding since January 1998.

List of any settlements of litigation made since January 1998. Or any waiver or agreement canceling any claim or right of substantial value.

Any correspondence relating to any alleged infringement of any patent, trademarks, or other intellectual property.

All correspondence relating to any threatened governmental investigation or alleged violations of law, regulation or code.

Product Liability

List of all products currently sold.

Percent of sales attributable to each product and product category and annual sales figures.

List of pending products liability cases.

Current status of each case – pleadings, discovery, awaiting trial, or appeal.

Complete file for each pending products liability case.

List of all product liability claims not in litigation.

Complete file for each claim.

Estimates of amount of liability in connection with pending products liability cases and claims.

Amount of reserves in connection with pending products liability cases and claims.

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Analysis of product liability suits and claims that have been settled for judgments rendered in the past for at least 5 years.

Documents concerning prior corporate transactions – to what extent is the companies obligated to indemnify any other entity or person for damages as a result of injures sustained in connection with the use of such products and what products are involved.

Have there been any investigations by state (Attorney General) or federal agencies concerning a defective product sold by the company.

Are there any product liability claims of which the company has knowledge which are not yet lawsuits?

Are there any product liability claims of which the company has knowledge which competitors are involved in claims or lawsuits? Are there any declaratory judgments pending against the company's insurance carriers on behalf of the company? Is there insurance coverage for common law or worker's compensation claims brought by employees against the company?

Operational Matters

All joint venture, partnership, management, research and development agreements to which the companies is a party.

List of sources of supplies of principal items purchased since January 1998.

Copies of purchase and supply contracts and descriptions of the terms, including price determination, conditions, and special concessions.

All marketing, sales, franchise, distribution, commission, agency or representative agreements, and a list of independent sales persons or distributors.

List of major customers by products

Description of controls of purchases and regulations of inventories.

A list of the primary competitors of the selling companies.

Standard forms used in connection with the companies including without limitation, purchase orders, sales orders, quotation forms, etc.

All documents since January 1999 creating any expenses or implied warranty with respect to work or products by the company.

All written agreements with respect to advertising, promotion, or public relations since January 1999.

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Any written description of credit or collection policies.

Insurance Policies

All contracts, policies and certificates of insurance, including without limitation the following overages.

General Liability

Product Liability

Fire or other casualty

Directors or Officers liability

Workman's Comp

Employee life insurance and Health insurance

Any reports or correspondence concerning the adequacy of such coverage or the denial of coverage under such policies.

Pricing Practices & Policies

Legal complaints or letters of complaint from any customer or competitor concerning pricing practices.

Any business plans, marketing plan documents, sales forecast, etc.

Price lists, whether published or unpublished.

Any competitive price or competitive information requests or reports.

Documents sufficient to show standard terms and conditions of sales.

Documents regarding pricing allowances, such as discounts, co-operative advertising, credits, etc.

Property

A schedule of all property owned or leased by the companies or any subsidiary, indicating in each case the ownership and characteristics.

Copies of leases or sub leases on all real property

Schedule of inventories, including descriptions and quantity of inventory.

Schedule of all material equipment used by the companies, indication the ownership and nature of such equipment.

Any material terms of any finance lease or security agreement pursuant or subject to which such equipment may be leased or owned.

Any correspondence regarding alleged defaults of such leases with lessors or lessees.

Any executory agreements with respect to the acquisitions or disposition of material assets.

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Software licensing agreement.

Transfer to New Owners

Confirmation from all customers' new contracts to replace current agreements in place from Company.

Confirmation from all suppliers' new contracts and agreements to replace current agreements in place from Company.

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