

Company Name
Due Diligence Checklist
MATERIALS TO BE FURNISHED BY ABC, INC. ("SELLER")
TO XYZ INC. ("BUYER") RELATING TO
123, INC. (THE "COMPANY")

Please provide the following documentation and information as requested below, mark n/a for all requests that are not applicable

Index Ref No.	Document Description	Comments/Notes
A	CORPORATE ORGANIZATION	
1	Articles of Incorporation <ul style="list-style-type: none"> • Certificate of Incorporation • Filing Articles of Incorporation • Certificates of Amendment • State and City Business Licenses 	
2	Bylaws <ul style="list-style-type: none"> • Restated and Amended Bylaws • Original Bylaws 	
3	Filing Fees <ul style="list-style-type: none"> • Initial Annual Report Filing Fee • Corporate License Renewal 	
4	Qualifications as Foreign Entity	
5	Voting Rights Agreement	
6	Board of Directors Committee Appointments	
7	Board of Advisors Charter	
B	BOARD AGENDAS, MINUTES AND OFFICIAL ACTIONS	
1	Organizational Meeting of Directors	
2	Directors Unanimous Consent to Corporate Action	
3	Shareholders Unanimous Consent to Corporate Action	
4	Board Meeting Minutes [by date]	
C	TAX STATUS, TAX RETURNS, FINANCIAL STATEMENTS	
1	Assignment of Federal Tax ID number	
2	Federal Tax Returns	

3	<p>Financial Statements:, Including:</p> <ul style="list-style-type: none"> a) Audited financial statements for all periods beginning on or after _____, consisting in each case of at least a balance sheet and income statement. b) Interim monthly unaudited financial statements for periods after the last audited statements c) Working papers related to the forgoing 	
5	Bank Statements for all depository arrangements	
6	List of Fixed Assets and other Leases	
7	Real Estate Tax Bills and Payment Records	
8	Franchise, License, Capital Stock, Doing Business and any other similar Tax Reports	
9	Credit agreements and credit instruments including loan agreements, notes, debentures and bonds, and files relating hereto	
10	Performance and financial bonds	
11	Instruments or arrangements creating liens, encumbrances, mortgages, or other charges (including mechanics and materialmen's liens) on any real or personal property of the Company, including property held indirectly through joint ventures, partnerships, subsidiaries or otherwise.	
12	Receivables analysis including aging, turnover, and bad debt experience	
13	Letters of Credit	
14	Planned versus actual results	
15	Management Financial Reports	
	<p>Breakdown of sales and gross margins by:</p> <ul style="list-style-type: none"> a) product type b) channel c) geography 	
16	Current Backlog of Customers	
17	Major growth drivers and prospects	
18	Risks attendant to foreign operations (e.g., exchange rate fluctuation, government instability)	
19	Industry and company pricing policies	
20	Economic assumptions and underlying projections (different scenarios based on price and market conditions)	
21	Off balance sheet financing activities	
22	Discuss general accounting policies (revenue recognition, etc.)	

23	Explanation of projected capital expenditures, depreciation, and working capital arrangements	
24	External financing arrangement assumptions, if any	
D	STOCK OPTION PLAN AND SHARE OWNERSHIP	
1	Questions and Answers about Stock Options	
2	Unanimous Written Consent of Directors	
3	Notice of Grant of Stock Option	
4	Stock Option Stock Issuance Plan (Exhibit A)	
5	Stock Option Agreement (Exhibit B)	
6	Stock Purchase Agreement Number (Exhibit C)	
7	Stock Purchase Agreement (Repurchase Right) (Exhibit C)	
8	Restricted Stock Issuance Agreement	
9	Written Consent in Lieu of Annual Meeting of Shareholders	
10	Stock Subscription Agreements	
11	Un-awarded Option Pool Summary	
12	Loan, Line of Credit or other Financing Arrangements	
13	Tax Sharing Agreements or Other Arrangements	
14	Overhead Allocation Agreements or Arrangements	
15	Management Services or Personal Loan Agreements or other Arrangements	
16	Guarantees or Keep-Well Arrangements for the Benefit of Creditors or other Third Parties	
17	Shareholder agreements relating to stock of the company or stock owned by the Company	
18	Documents imposing restrictions or conditions on stock transfer or merger, including any arrangements granting rights of first refusal or other preferential rights.	
19	Third-party or governmental consent or authorizations required for merger or acquisition	
20	Statement of Fully Diluted Outstanding Shares	
21	Backup Detail Supporting "Statement of Fully Diluted Outstanding Shares"	
E	EMPLOYMENT AGREEMENTS – OFFER LETTERS	
1	Founders	
2	Employees	
3	Other	
F	EMPLOYEE MATTERS	
1	Corporate policies concerning hiring, compensation, advancement and termination	
2	Labor contracts together with a list of all labor unions that have represented or attempted to represent employees of	

	the Company during the past ____ years	
3	<p>Agreements with individual employees, including:</p> <ul style="list-style-type: none"> (a) executive employment agreements, (b) bonus, profit-sharing and similar arrangements, (c) post employment agreements including "salary continuation" and "golden parachute" arrangements, and (d) covenants not to compete by present or former employees. 	
4	Names of any officers or key employees who have left the Company during the past ____ years.	
5	<p>Each of the following which the Company maintains or contributes to, together with filings with the Internal Revenue Service, Pension Benefit Guaranty Corporation (PBGC), Securities and Exchange Commission and Department of Labor, including without limitation Forms 5500 and 5310, summary plan descriptions, summary annual reports, IRS determination letters (for qualified plans), and PBGC reportable events:</p> <ul style="list-style-type: none"> (a) Union-sponsored multiemployer plans, (b) Defined benefit plans, (c) Defined contribution plans including: <ul style="list-style-type: none"> (i) money purchase pension plans, (ii) profit-sharing plans, (iii) stock bonus plans, (iv) employee stock ownership plans, and (v) savings or thrift plans, (d) Health and welfare plans, including: <ul style="list-style-type: none"> (i) medical, surgical, hospital or other health care plans or insurance programs including HMOs, (ii) dental plans, (iii) short-term disability or sick pay plans or arrangements, (iv) long-term disability insurance or uninsured arrangements, (v) group term or other life or accident insurance, (vi) unemployment or vacation benefit plans, and (vii) other welfare plans, (e) Nonqualified deferred compensation 	

	<p>arrangements including:</p> <ul style="list-style-type: none"> (i) director or officer deferred fee plans, (ii) excess benefit plans (providing benefits in excess of internal revenue code limitations for qualified plans), and (iii) severance pay plans, <p>(f) Incentive or bonus plans including:</p> <ul style="list-style-type: none"> (i) stock option plans, (ii) stock bonus plans, (iii) stock purchase plans, and (iv) cash bonus or incentive plans. 	
G	CONTRACTOR / CONSULTANT AGREEMENTS	
H	BOARD OF DIRECTORS APPOINTMENTS	
I	BOARD OF ADVISORS APPOINTMENTS	
J	ENGAGEMENT LETTERS	
1	Legal Counsel	
2	Patent Counsel	
3	Accountant/Auditor	
4	Recruitment Firms	
5	Misc.	
K	OTHER AGREEMENTS	
1	Web Site Development	
2	Product Licensing	
3	Beta Partners	
4	E-Commerce Services	
5	Customer Contracts	
6	Supplier Contracts	
L	INTELLECTUAL PROPERTY	
1	Third-Party Licensing	
2	Patent Application Documents	
3	List of Material patents, copyrights, licenses, and trademarks (issued and pending)	
4	State of _____ Registered Trade Names	
5	Domain Name Registrations	
M	NON-DISCLOSURE AND TECHNOLOGY RIGHTS AGREEMENTS	
1	With Individuals or Corporate Contractors (Employees, Contractors, Consultants)	

N	REAL ESTATE, EQUIPMENT, AND OTHER PERSONAL PROPERTY	
1	List of real estate (with legal descriptions), equipment and other personal property owned, leased or in the process of being acquired or sold by the Company, with the cost and book value of each item.	
2	Real estate, equipment and other personal property leases and conditional sale agreements.	
3	Information relating to title on all property listed in the items above, including motor vehicle title documents.	
4	Appraisals of real estate, personal property and equipment.	
O	INSURANCE	
1	General Liability	
	Fire	
	Casualty	
	Life	
	Title	
	Worker's Compensation	
	Any other insured events or matters	
	Directors & Officers Liability (Lloyd's of London)	
P	COMPLETED AGREEMENTS - HISTORICAL RECORDS	
Q	SUBSCRIPTION AND WARRANTS AGREEMENTS - PREVIOUS FINANCINGS	
1	List of Investors, Shares and Taxpayer ID Numbers	
2	Subscription Agreements	
3	Warrant Agreements	
4	Term Sheets	
5	Investor Rights Agreements	
R	MANAGEMENT AND OPERATIONS	
1	Internal management reports and memoranda	
2	Policy and procedure manuals, including those concerning personnel policy, internal controls, and legal and regulatory compliance	
3	Budgets, financial projections, business plans and capital expenditure plans	
4	Contracts and arrangements for supplies or services, including the following which were entered into or under which work was done during the past ____ years: <ul style="list-style-type: none"> a) contracts for the sale or purchase of real estate b) contracts for the purchase or sale of materials, equipment, or other property or fixtures. c) Contracts or other arrangements for legal, accounting, consulting, brokerage, banking or 	

	<p>other services, and</p> <p>d) Construction and engineering contracts and subcontracts</p>	
5	<p>Proprietary information and documents, including:</p> <p>a) patents and patent applications</p> <p>b) copyrights</p> <p>c) trademarks, service marks, logos, and trade or assumed names</p> <p>d) non-patentable proprietary know-how</p> <p>e) licensing agreements relating to any of the forgoing</p> <p>f) confidentiality agreements related to any of the forgoing</p>	
6	Partnership or joint venture agreements to which the Company is a party and any other arrangements with third parties concerning the management or operation of properties, facilities, or investments of the Company	
7	Reports to management, board of directors, or shareholders prepared by outside consultants, engineers or analysts	
8	Closing documentation and related files for each prior sale of Company stock and each material asset purchased or sold by the Company in the last _____ years	
9	Leases, deeds and related instruments, including without limitation, office premises leases, equipment or vehicle leases, and any such instruments held indirectly through joint ventures, partnerships, subsidiaries or otherwise.	
10	Agreements or arrangements granting rights of first refusal or other preferential purchase rights to any property of the Company.	
11	Other material agreements or arrangements.	
12	Organizational Chart	
13	Historical and projected headcount	
14	Management Team Biographies	
15	Compensation arrangements	
S	GOVERNMENTAL REGULATION	
1	Licenses, permits, filings or authorizations obtained from, made with or required by any governmental entity.	
2	Correspondence with any governmental regulatory authority.	
3	Accident or injury reports to federal, state, local and foreign governmental entities.	
T	LITIGATION AND CLAIMS	
1	Pending or threatened litigation, regulatory investigations, governmental actions, arbitrations, or notices of violation or possible violation, including proceedings in which the	

	Company is a plaintiff or claimant, and the names and addresses of legal counsel advising or representing the Company in each matter.	
2	Files and records relating to the foregoing including opinions and evaluations.	
3	Description of environmental and employee safety issues and liabilities	
4	History of SEC or other regulatory problems, if any	
U	PRODUCTS	
1	Major customers and applications	
2	Revenue by customer	
3	Historical and projected growth rates	
4	Market share	
5	Speed and nature of technological change	
6	Timing of new products, product enhancements	
7	Cost structure and profitability	
V	OTHER MISCELLANEOUS ITEMS	
3	Employee Handbook	

Sample Preview

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