



Monday, October 1, 2012

11:00 AM - 12:30 PM

401 – Conducting Efficient Due Diligence

Douglas Abell

General Counsel, Chief Compliance and Privacy Officer and Corporate Secretary
Curo Health Services, LLC

Shawn Bunting

Vice President, General Counsel & Secretary
American Water Enterprises, Inc.

Jeff Mittleman

Partner
Holland & Knight

Alan Tse

Executive Vice President & General Counsel
Churchill Downs Incorporated

Faculty Biographies

Douglas Abell

Doug Abell is the general counsel, chief compliance & privacy officer and corporate secretary for Curo Health Services, a national provider of high-quality hospice and home health services. Since joining Curo, Mr. Abell has established an agile legal function capable of responding to all of the legal and regulatory needs of a high-growth healthcare company, including mergers and acquisitions, labor matters, healthcare regulatory matters and enterprise risk management. Mr. Abell is responsible for Curo's quality and compliance program leading Curo's efforts to prevent fraud, waste and abuse; promote ethical conduct; and ensure high-quality patient care in every market we serve. Mr. Abell also serves as Curo's chief administrative officer leading the company's administrative, human resources and payroll functions with a focus on building a great company founded on a culture of compliance and caring for every Curo employee and every individual patient and family we serve.

Prior to joining Curo, Mr. Abell served as vice president, corporate counsel for Kindred Healthcare, Inc. (NYSE: KND), a FORTUNE 500 healthcare services company, and had responsibility for Kindred's mergers and acquisitions, corporate finance and capital markets transactions as well as SEC and NYSE reporting and compliance, corporate governance and executive compensation.

Mr. Abell is a graduate of the University of Notre Dame and Vanderbilt University Law School.

Shawn Bunting

Shawn C. Bunting is vice president, general counsel and secretary of American Water Enterprises Inc., the market based subsidiary of American Water, the largest publicly traded U.S. water and wastewater company.

In this role, Mr. Bunting serves as the chief legal officer for American Water Enterprises, providing oversight, guidance and direction regarding all matters. Mr. Bunting leads a team of attorneys, compliance specialists and professionals in supporting several diverse businesses operating throughout the United States and Canada. In addition to Mr. Bunting's general legal duties, he is experienced in negotiating various forms of complex transactions and public-private partnerships (PPPs) including concession agreements.

Prior to joining American Water Enterprises, Mr. Bunting served as an assistant general counsel at Allegheny Energy, Inc., a multistate electric utility. Prior to joining Allegheny Energy, Mr. Bunting was associated with the international law firm of K&L Gates LLP, specializing in mergers and acquisitions, financings and securities matters.

In 2010, Mr. Bunting was named a Finalist for the Outstanding In-House Counsel of the Year Award presented by the Association of Corporate Counsel DELVACCA Chapter. Mr. Bunting currently serves on the board of directors of the Burlington and Camden County Chapter of the American Red Cross, as well as the alumni board of Gettysburg College.

Mr. Bunting earned a BA from Gettysburg College and a JD from the University of Pittsburgh School of Law, where he served as the executive editor of the *Journal of Law and Commerce*.

Jeff Mittleman

Jeffrey W. Mittleman is a partner in the business section of Holland & Knight and is a member of the firm's national healthcare and life sciences team and compliance services team. He practices in the area of health, regulatory and corporate law. With more than ten years of experience, he represents clients in a variety of sectors of the healthcare industry including, health plans (both fully and self-insured), PPOs, HMOs, insurers, pharmacy benefit managers, pharmaceutical manufacturers, medical device companies, retail pharmacies, long-term care pharmacies, specialty pharmacies, mail order pharmacies, wholesale drug distributors, e-health, disease management and healthcare technology companies. Mr. Mittleman represents clients in a variety of corporate and contractual transactions, including mergers and acquisitions, joint ventures, licensing, financing and services related transactions. He also advises clients in fraud and abuse defense, the structuring of compliance and ethics programs, Medicare, Medicaid, ERISA, HIPAA, licensing, state insurance and managed care law. In addition, Mr. Mittleman has significant experience in advising health plans with drafting of plan documents, ASO contracting and other regulatory issues.

Mr. Mittleman holds various leadership positions within the firm, including serving on the firm's Directors Committee and as the transactions leader of the firm's national healthcare and life sciences team. He serves as the Boston office public and charitable services partner and the co-chair of the Boston office's Diversity Committee.

Alan Tse

Alan K. Tse is executive vice president and general counsel of Churchill Downs, Inc. (NASDAQ: CHDN). In addition to the Kentucky Derby, Churchill Downs also owns several casinos and thoroughbred racetracks throughout the country and is the owner of

the largest account wagering company in the U.S., *twinspires.com* as well as *Bluff Magazine*, the industry leading poker periodical.

Mr. Tse was formerly vice president and general counsel of LG Electronics MobileComm USA. Mr. Tse was responsible for all legal and regulatory matters for LG's mobile phone business in North America. Prior to joining LG, Mr. Tse was the vice president and general counsel of Ligos Corporation, and prior to Ligos, Mr. Tse was the vice president of strategic development and general counsel of Centerpoint Broadband Technologies, Inc.

Mr. Tse started his career as a business and technology attorney at Brobeck Phleger and Harrison LLP in their Silicon Valley office representing technology companies and venture capitalists. Mr. Tse is the co-founder and serves on the board of the Asian American Legal Foundation and also served on the ACC Kentucky Chapter board of directors. Mr. Tse is a frequent speaker at national legal conferences on the roles and responsibilities of the general counsel and was named one of the best lawyers under 40 by the National Asian Pacific American Bar Association in 2005.

Mr. Tse holds a BA in economics and political science from the University of California at Berkeley where he earned Phi Beta Kappa honors and graduated cum laude from Harvard Law School.

Conducting Effective Due Diligence

Practical Guidance For Pre and Post
Acquisition Issues

Presenters

- Doug Abell – General Counsel, Chief Compliance Officer & Secretary of Curo Health Services, LLC
- Shawn Bunting – Vice President, General Counsel & Secretary of American Water Enterprises, Inc.
- Jeffrey Mittleman – Partner, Holland & Knight
- Alan Tse – Executive Vice President & General Counsel of Churchill Downs Incorporated

Acquisition Timeline

- Confidentiality Agreement
- Letter of Intent
- Due Diligence
- Definitive Agreement
- Disclosure Schedules
- Closing Deliveries
- Fund & Close

AND THEN . . .

Deal Hangover

Outside Firms

- Closing Dinner
- Next Deal for the Next Client

In-house Lawyers

- Integration
- Achieve Synergies
- Manage Litigation
- Monitor Indemnity Claims
- Run the Business

Effective Due Diligence

“Market” Terms VS Operational Needs

Effective Due Diligence

Getting the Deal Done – Legal Diligence

Market Terms

- Risk Allocation
- Confirm Reps & Warranties
- Indemnification
- Disclosure/Informational Schedules

See Diligence Request List – Public Company and Private Company Deals

Effective Due Diligence

Living with the Deal – Operational Diligence

Operational Needs

- Synergy-related information
- All Litigation
- Employees and Pay Information
- Benefit Information
- All mission critical agreements
- Systems-related agreements
- Insurance Coverage
- Key Personnel
- Regulatory Issues
- Licensure (CHOW)

See Diligence Request List – Private Company Deal

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Making the Seller Produce

Round 1

Ask and You Shall Receive?

- Balance of Deal Power
- Informational Schedules in Reps & Warranties
- Appropriate Indemnity Baskets and Caps
- RPI - Relentless Pursuit of Information
- Understand, Evaluate & Analyze Risks.
- Advise Business

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Making the Seller Produce

Round 2

Where did that Come From?

- Stringent Review of Disclosure Schedules
- Reassess Reps & Warranties
- Reassess Indemnity Package – Escrows, Baskets and Caps
- RPI - Relentless Pursuit of Information
- Advise Business

Deal Hangover Avoided

Legal Diligence

- Risk Allocation
- Confirmed Reps & Warranties
- Indemnity Package

Operational Diligence

- Synergies
- Manage Risks
- Avoid Uncertainties
- Run the Business

DUE DILIGENCE REQUEST LIST

For the Proposed [_____] Transaction

Among

and

The following is a list of documents and information requested to perform due diligence investigation in connection with the proposed [_____] transaction among _____ and _____. The information requested below should be provided for _____, and each of its subsidiaries, if any (collectively, the "Company").

As the review proceeds additional documents or other materials may need to be reviewed. Any additional documents or other materials will be requested under a separate cover letter. Please provide a written response to each of the items described below by providing copies of the requested documents or lists of the requested information, stating which item the document or schedule is responsive to or stating that the request is inapplicable.

If any of the itemized requests are inapplicable to the Company, please respond to such item by indicating "None."

I. Corporate Governance Documents.

- A. Articles of Incorporation and all amendments thereto.
- B. Bylaws and all amendments thereto.
- C. Minutes, Written Consents, and Resolutions relating to actions taken by the Board of Directors, Committees of the Board of Directors or Shareholders.
- D. Stock Transfer Records.
- E. Photocopies (front and back) of Stock Certificates.
- F. Listing of all jurisdictions in which qualified to do business and a copy of the application, registration or certification.
- G. Listing of all jurisdictions other than those listed immediately above in which the Company currently operates.
- H. Listing of all jurisdictions in which the Company files tax returns, is registered to pay taxes or pays taxes (including sales tax).
- I. Any agreement relating to voting rights, including voting trusts, shareholders agreements, proxies, or the like.
- J. Any agreement relating to registration rights.
- K. Any agreement relating to restrictions on transferability of stock, options to sell or purchase stock, pre-emptive rights, tag along rights or conversion rights.

- L. Listing of shareholders, cross-checked against certificate book.
- M. Listing of all issued and outstanding shares of common stock, preferred stock (including a complete description of the rights attaching to such shares of preferred stock) and any other securities of the Company and copies of any stock record books and stock transfer ledgers relating thereto.
- N. Listing of all issued and outstanding options, warrants and other securities convertible into or exchangeable for shares of capital stock of the Company, and a list of each holder thereof, the date of the issuance or grant, the expiration date, the number of shares obtainable upon conversion or exercise thereof and the consideration to be received by the Company upon conversion and exercise thereof.
- O. Listing of all corporations, partnerships, associations, joint ventures and other business entities in which the Company owns, directly or indirectly, any interest. For each such entity, state the nature of the interest, the percentage ownership of such entity, the jurisdiction in which such entity was formed, each jurisdiction in which such entity is qualified to do business and the business presently conducted, and if different, please provide the articles of incorporation, partnership agreement or any other organizational documents, as amended to date.
- P. Listing of names under which the Company or any predecessor thereof has done business in the past five years.
- Q. Listing of all officers and directors of the Company for the last five years, including any reasons for resignations or terminations.

II. Business Information.

- A. Any market or feasibility study, analysis, or the like prepared within the past three years.
- B. Any sales, marketing or descriptive brochures prepared within the last three years.
- C. Audited and unaudited financial statements for the three most recently completed fiscal years and set of current financial statements for most recent fiscal year (year-to-date).
- D. Detailed trial balance or general ledger for all periods during the past five fiscal years.
- E. Listing of all liabilities which are not reflected on the Company's financial statements.
- F. Any accounting policy or procedures manual maintained by the Company and a schedule of other major accounting policies, noting any which may be controversial.
- G. Listing of any change in the Company's accounting policies or procedures during the past five fiscal years.
- H. Copy of the Company's internal controls over financial reporting.

- I. Listing of accounting firms that have represented the Company in any material matters in the last five fiscal years.
- J. Listing of any disagreements with the Company's outside auditors concerning the Company's financial reporting during the past five fiscal years.
- K. Written financial plans, budgets, projections, or business plans prepared within the last three years.
- L. Management financial reports prepared for directors within the past three years.
- M. All correspondence with accountants (including any management letter) prepared or received within the past five years.
- N. Lawyers' letters to auditors regarding contingent liabilities within the last five years.
- O. Any private placement memoranda prepared and used by the Company during the past five years.
- P. Internal operation manuals and organization charts.
- Q. Environmental reports, studies or analyses prepared internally or by others relating to or affecting the Company, its assets or business.
- R. Listing of the current aging of the Company's accounts receivable.
- S. Any reports of any outside consultants, analysts or others concerning the Company.
- T. Any direct or indirect transactions undertaken during the past five fiscal years between the Company and any officer, director, employee or shareholder.
- U. Listing of all bank accounts and lines of credit. Include bank name, account number, and persons who are responsible for the account.
- V. All material communications with shareholders, including those filed with the Securities and Exchange Commission ("SEC"), if applicable.
- W. Listing of major clients, showing percentage of revenue derived from each client during the past five fiscal years.
- X. Any press releases or articles concerning the Company within the past three years in newspapers, magazines, internet, and trade/industry publications.

III. Property and Debt.

- A. Personal Property.
 - 1. Purchase contracts currently in effect, leases or other agreements with respect to material items of equipment utilized, including data processing equipment, computer services and the like.
 - 2. Fixed assets schedule for the most recent date available.
 - 3. Listing of all leased equipment.

- B. Real Property.
1. Listing of all real property owned or leased (including a brief description of each structure thereon and its use).
 2. All title insurance policies with respect to any real property owned (with copies of all title exceptions).
 3. Copies of all deeds of any real property owned showing title in seller.
 4. Copies of all leases for any real property.
 5. Copies of all professional appraisals of any material real property.
 6. Any currently effective or proposed agreement or option (including any material related documentation) for the purchase, sale, or lease of real property.
 7. Surveys.
 8. Environmental audits, if any.
 9. Building permits (from when constructed).
 10. Certificates of Occupancy.
 11. Any information regarding zoning and land use.
 12. Confirmation of adequate parking.
 13. List of personal property to be sold with building, if any.
 14. Proof of taxes being current.
 15. Copies of any reports, inspection reports re: structure/improvements.
 16. Copies of any contracts regarding operation of property.
 17. Copies of any warranties (i.e. roof, a/c) for property.
- C. Short-Term Debt
1. Listing of all short-term debt indicating principal amounts, interest rates, outstanding amounts and maturity dates.
- D. Long-Term Debt.
1. Listing of all currently effective loan agreements, indentures, debt instruments, letters of credit, and other financial instruments.
 2. Listing of all mortgage, liens, pledges, security interests, security agreements, charges or other encumbrances to which any properties or assets are subject.
 3. All correspondence with lenders and debt security holders referred to in C.1 or C.2.
 4. Any consent from any person required for borrowing.
 5. Any documents relating to any proposed new indebtedness such as term sheets, commitment letters and draft agreements.

IV. Contracts.

- A. Any standard form of agreement used.
- B. Copies of all materials, supplies and other purchase contracts.
- C. Copies of all material customer contracts.
- D. Copies of all material distribution, sales agency and representative contracts.
- E. Any license, franchise, research, collaborative, funding, management, service affiliation and other material agreements relating to the company's business.
- F. Any currently effective bond, surety contract, guarantee, or agreement with respect to the payment or performance of obligations of any third parties.
- G. Listing of all contracts and commitments under which a default has occurred or is claimed to have occurred setting forth the nature of default, name of the party in default, monetary amount claim, and the current status of contract or claim.
- H. Listing of all contracts to which the Company is a party which are subject to renegotiation, including those contracts which are currently being renegotiated (and designate as such).
- I. Listing of all agreements restricting the ability of the Company to compete in any line of business with any person or entity, or committing the Company to continue in any line of business, or under which the Company is the beneficiary of a third party's agreement not to compete.
- J. Listing of all agreements granting the Company any right of first refusal to acquire any business or assets, or pursuant to which the Company has granted any such rights to any third party.
- K. Listing of all licensing, royalty, franchising, joint venture or partnership agreements to which the Company is a party.
- L. Listing of all agreements to which the Company is a party and in which any officer, director, employee, or shareholder of the Company has or had an interest, whether directly or indirectly.
- M. Listing of any waiver or agreement of the Company canceling claims or rights of substantial value other than in the ordinary course of business, or any document relating to material write-downs or write-offs of notes or accounts receivables other than in the ordinary course of business.
- N. Copies of any joint venture, partnership, or limited partnership agreement.
- O. Agreements, arrangements or understandings relating to any major acquisition or disposition by the Company during the last five years or which is currently proposed.
- P. Secrecy or confidentiality agreements, with employees and with other companies, with respect to proprietary information.
- Q. Equipment leases.

- R. Trade and barter agreements.
 - S. Advertising contracts.
- V. Employees and Personnel.
- A. Listing of current employees and consultants, indicating position, start date, salaries and bonuses for the previous fiscal year and their scheduled compensation for the current fiscal year.
 - B. Any confidentiality or non-competition agreement to which key employees and consultants are bound as a result of prior employment.
 - C. Any employment agreement or consulting agreement.
 - D. Any contract with present or former officers or directors, including any executive compensation plans, and any agreement evidencing a loan to a present or former officer or director.
 - E. Listing of all employee benefit plans and programs offered to employees of the Company, including all group life insurance plans, major medical plans, medical reimbursement plans, 401(k) and similar benefit plans, supplemental unemployment benefit plans or welfare plans, salary continuation plans and bonus plans and copies of any brochures, agreements and other documentation relating thereto.
 - F. Any performance bonus plan which is currently in effect or were in effect during the last five years.
 - G. Any deferred compensation programs affecting officers, directors or employees of the Company and the amount accrued and paid during the past five fiscal years under such programs and copies of any agreements or documentation relating thereto.
 - H. Any stock appreciation or stock option plan adopted or proposed to be adopted within the last five years; any option agreement, including a listing of any employee or director who has outstanding options (including with respect to each such employee the issuance date of the options, the number of shares of capital stock covered thereby, and the exercise price thereof), and any plan description furnished to participating employee.
 - I. Any agreement or understanding regarding indemnification of directors or officers.
 - J. Any management prerequisite, fringe benefit, profit sharing plan, pension plan, deferred compensation arrangement, and similar plan or arrangement currently in effect as to employees or directors (provide a written description of any such arrangement which is not in writing).
 - K. Any labor contract, collective bargaining agreement, or employee-management pact covering any employee.

- L. Documents filed in the last five years with relevant employee relations, safety and civil rights authorities.
- M. Listing of any unfair labor practice and equal employment opportunity complaints lodged during the past five years involving the Company or any of its clients.
- N. Documents relating to unionization efforts or labor unrest.
- O. Employee manual and policy statements.
- P. Any documents relating to any transaction between the Company and any director, officer or beneficial owner of more than 5% of the stock of the Company.
- Q. Listing of any employment, agency partnership, consultancy or similar relationship with any individuals or entities outside of the United States.

VI. Intellectual Property/Licenses.

- A. Listing of all intellectual property rights owned by or licensed to the Company (e.g., patents, trademarks, service marks, copyrights, trade names, etc., including any applications therefore) and any agreement, license, or any other documentation related thereto.
- B. Any material government (federal, state, or local) or regulatory agency, license, permit, or authorization of any business activity, including any such activity which is pending or proposed to be obtained or required in related material documentation, together with a schedule thereof.
- C. Any correspondence, report and notice relating to laws and regulations administered by any federal, state, or local governmental agency received within the last five years.
- D. Any application, filing or report submitted to any federal, state or local governmental or regulatory agency in the past five years in connection with obtaining any license or permit for a similar right to operate businesses or receive compensation for reimbursement therefore.
- E. Listing of any investigation of the Company by any federal, state, local or foreign governmental agency or regulatory or licensing authority.
- F. Any reports, notices, or correspondence relating to any purported violation by the Company and any suspended or revoked governmental permits or licenses and copies of all other material correspondence with governmental agencies.

VII. Litigation.

- A. Copies of any correspondence or notices concerning the Company's compliance with occupational safety standards or civil rights, labor or environmental laws.
- B. Consent decrees, judgments, other decrees or orders, settlement agreements and other agreements to which the Company or any of its subsidiaries is a party or is bound, requiring or prohibiting any future activities.

- C. Schedule and brief description of all pending legal proceedings (including claims covered by insurance) to which the Company or an officer or director of the Company is a party, together, in each case, with the name of the court or agency in which the proceedings are pending, the date instituted, principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought.
- D. Any letters from counsel to accountants with respect to litigation or contingent liabilities over the past five years.
- E. Correspondence with insurers regarding any pending or threatened litigation, any judgment, order, or decree to which the Company or assets is subject.
- F. Correspondence relating to any federal, state or local governmental investigation of the Company, or its assets, contracts or business, or any officer or director of the Company.
- G. Listing of fines and penalties incurred by the Company arising out of its business and operations.
- H. Listing of any bankruptcy, criminal or other judicial proceeding pending, expected or completed within the past ten years involving the Company or any officer or director.
- I. Any correspondence relating to actual or alleged infringement of intellectual property rights of others in the past five years.
- J. Any notice, order or other correspondence relating to matters before any federal, state or local agency charged with environmental protection responsibilities to which the Company is or may be a party or by which they are or may be bound or affected.
- K. Environmental reports, studies or analyses prepared internally or by others relating to or affecting the Company, its assets or business.

VIII. Taxes.

- A. Any correspondence with any federal, state, local or other governmental authorities or agencies charged with tax collection or enforcement concerning adjustments or questioning compliance or positions taken by the Company or any of its subsidiaries within the past five years.
- B. All audit papers from most recently completed audit by any federal, state, local or other governmental authorities or agencies charged with the tax collection of the Company or any of its subsidiaries in the last five years.
- C. All federal, state, or local government tax returns filed within the past five years.
- D. All federal and state tax schedules filed by the shareholders of the Company, disclosing amounts reported by the Company.
- E. Listing of any positions claimed by any shareholder of the Company on his/her tax returns that differ from amounts reported therefore by the Company.

- F. Any agreements, consents, elections and waivers filed or made with any federal, state, local or other governmental authorities or agencies charged with tax collection or enforcement.
- G. Listing of all pending or threatened disputes and audits with regard to taxes of any type payable by the Company, together with copies of any correspondence and reports relating thereto.
- H. Any tax indemnification agreements, tax sharing agreements and tax allocation agreements involving the Company and other members of an affiliated group, including any joint venture agreement that has the effect of tax allocation agreements and a summary of how such agreement was carried out over the past five years.

IX. Insurance Policies.

- A. A schedule of all insurance policies maintained (including key personnel life insurance, directors and officers liability insurance, product liability insurance and bonding and surety contracts), including the type of coverage, annual premiums, name of insured, and term. To the extent insurance carriers or coverage have changed during that last five years, please so indicate.
- B. Any documentation regarding any self-insurance arrangement.
- C. Listing of all claims filed during the last five years.
- D. Methodology for determining reserves, including incurred but not reported claims for the last five fiscal years.

X. Other.

- A. All other documents and information which in the Company's judgment are significant with respect to any part of its business or which should be considered and reviewed in connection with evaluating the legal, business and financial condition of the Company.

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DUE DILIGENCE REQUEST LIST

For the Proposed [_____] Transaction

Among

and

The following is a list of documents and information requested to perform due diligence investigation in connection with the proposed [_____] transaction among _____ and _____. The information requested below should be provided for _____, and each of its subsidiaries, if any (collectively, the "Company").

As the review proceeds additional documents or other materials may need to be reviewed. Any additional documents or other materials will be requested under a separate cover letter. Please provide a written response to each of the items described below by providing copies of the requested documents or lists of the requested information, stating which item the document or schedule is responsive to or stating that the request is inapplicable.

If any of the itemized requests are inapplicable to the Company, please respond to such item by indicating "None."

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- C. Minutes, Written Consents, and Resolutions relating to actions taken by the Board of Directors, Committees of the Board of Directors or Shareholders.
- D. Stock Transfer Records.
- E. Photocopies (front and back) of Stock Certificates.
- F. Listing of all jurisdictions in which qualified to do business and a copy of the application, registration or certification.
- G. Listing of all jurisdictions other than those listed immediately above in which the Company currently operates.
- H. Listing of all jurisdictions in which the Company files tax returns, is registered to pay taxes or pays taxes (including sales tax).
- I. Any agreement relating to voting rights, including voting trusts, shareholders agreements, proxies, or the like.
- J. Any agreement relating to registration rights.
- K. Any agreement relating to restrictions on transferability of stock, options to sell or purchase stock, pre-emptive rights, tag along rights or conversion rights.

- L. Listing of shareholders, cross-checked against certificate book.
- M. Listing of all issued and outstanding shares of common stock, preferred stock (including a complete description of the rights attaching to such shares of preferred stock) and any other securities of the Company and copies of any stock record books and stock transfer ledgers relating thereto.
- N. Listing of all issued and outstanding options, warrants and other securities convertible into or exchangeable for shares of capital stock of the Company, and a list of each holder thereof, the date of the issuance or grant, the expiration date, the number of shares obtainable upon conversion or exercise thereof and the consideration to be received by the Company upon conversion and exercise thereof.
- O. Listing of all corporations, partnerships, associations, joint ventures and other business entities in which the Company owns, directly or indirectly, any interest. For each such entity, state the nature of the interest, the percentage ownership of such entity, the jurisdiction in which such entity was formed, each jurisdiction in which such entity is qualified to do business and the business presently conducted, and if different, please provide the articles of incorporation, partnership agreement or any other organizational documents, as amended to date.
- P. Listing of names under which the Company or any predecessor thereof has done business in the past five years.
- Q. Listing of all officers and directors of the Company for the last five years, including any reasons for resignations or terminations.

II. Business Information.

- A. Any market or feasibility study, analysis, or the like prepared within the past three years.
- B. Any sales, marketing or descriptive brochures prepared within the last three years.
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- R. Listing of the current aging of the Company's accounts receivable.
- S. Any reports of any outside consultants, analysts or others concerning the Company.
- T. Any direct or indirect transactions undertaken during the past five fiscal years between the Company and any officer, director, employee or shareholder.
- U. Listing of all bank accounts and lines of credit. Include bank name, account number, and persons who are responsible for the account.
- V. All material communications with shareholders, including those filed with the Securities and Exchange Commission ("SEC").
- W. All Company filings with the SEC.
- X. Listing of major clients, showing percentage of revenue derived from each client during the past five fiscal years.
- Y. Any press releases or articles concerning the Company within the past three years in newspapers, magazines, internet, and trade/industry publications.

III. Property and Debt.

- A. Personal Property.
 - 1. Purchase contracts currently in effect, leases or other agreements with respect to material items of equipment utilized, including data processing equipment, computer services and the like.
 - 2. Fixed assets schedule for the most recent date available.

3. Listing of all leased equipment.
- B. Real Property.
1. Listing of all real property owned or leased (including a brief description of each structure thereon and its use).
 2. All title insurance policies with respect to any real property owned (with copies of all title exceptions).
 3. Copies of all deeds of any real property owned showing title in seller.
 4. Copies of all leases for any real property.
 5. Copies of all professional appraisals of any material real property.
 6. Any currently effective or proposed agreement or option (including any material related documentation) for the purchase, sale, or lease of real property.
 7. Surveys.
 8. Environmental audits, if any.
 9. Building permits (from when constructed).
 10. Certificates of Occupancy.
 11. Any information regarding zoning and land use.
 12. Confirmation of adequate parking.
 13. List of personal property to be sold with building, if any.
 14. Proof of taxes being current.
 15. Copies of any reports, inspection reports re: structure/improvements.
 16. Copies of any contracts regarding operation of property.
 17. Copies of any warranties (i.e. roof, a/c) for property.
- C. Short-Term Debt
1. Listing of all short-term debt indicating principal amounts, interest rates, outstanding amounts and maturity dates.
- D. Long-Term Debt.
1. Listing of all currently effective loan agreements, indentures, debt instruments, letters of credit, and other financial instruments.
 2. Listing of all mortgage, liens, pledges, security interests, security agreements, charges or other encumbrances to which any properties or assets are subject.
 3. All correspondence with lenders and debt security holders referred to in C.1 or C.2.
 4. Any consent from any person required for borrowing.

5. Any documents relating to any proposed new indebtedness such as term sheets, commitment letters and draft agreements.

IV. Contracts.

- A. Any standard form of agreement used.
- B. Copies of all materials, supplies and other purchase contracts.
- C. Copies of all material customer contracts.
- D. Copies of all material distribution, sales agency and representative contracts.
- E. Any license, franchise, research, collaborative, funding, management, service affiliation and other material agreements relating to the company's business.
- F. Any currently effective bond, surety contract, guarantee, or agreement with respect to the payment or performance of obligations of any third parties.
- G. Listing of all contracts and commitments under which a default has occurred or is claimed to have occurred setting forth the nature of default, name of the party in default, monetary amount claim, and the current status of contract or claim.
- H. Listing of all contracts to which the Company is a party which are subject to renegotiation, including those contracts which are currently being renegotiated (and designate as such).
- I. Listing of all agreements restricting the ability of the Company to compete in any line of business with any person or entity, or committing the Company to continue in any line of business, or under which the Company is the beneficiary of a third party's agreement not to compete.
- J. Listing of all agreements granting the Company any right of first refusal to acquire any business or assets, or pursuant to which the Company has granted any such rights to any third party.
- K. Listing of all licensing, royalty, franchising, joint venture or partnership agreements to which the Company is a party.
- L. Listing of all agreements to which the Company is a party and in which any officer, director, employee, or shareholder of the Company has or had an interest, whether directly or indirectly.
- M. Listing of any waiver or agreement of the Company canceling claims or rights of substantial value other than in the ordinary course of business, or any document relating to material write-downs or write-offs of notes or accounts receivables other than in the ordinary course of business.
- N. Copies of any joint venture, partnership, or limited partnership agreement.
- O. Agreements, arrangements or understandings relating to any major acquisition or disposition by the Company during the last five years or which is currently proposed.

- P. Secrecy or confidentiality agreements, with employees and with other companies, with respect to proprietary information.
 - Q. Equipment leases.
 - R. Trade and barter agreements.
 - S. Advertising contracts.
- V. Employees and Personnel.
- A. Listing of current employees and consultants, indicating position, start date, salaries and bonuses for the previous fiscal year and their scheduled compensation for the current fiscal year.
 - B. Any confidentiality or non-competition agreement to which key employees and consultants are bound as a result of prior employment.
 - C. Any employment agreement or consulting agreement.
 - D. Any contract with present or former officers or directors, including any executive compensation plans, and any agreement evidencing a loan to a present or former officer or director.
 - E. Listing of all employee benefit plans and programs offered to employees of the Company, including all group life insurance plans, major medical plans, medical reimbursement plans, 401(k) and similar benefit plans, supplemental unemployment benefit plans or welfare plans, salary continuation plans and bonus plans and copies of any brochures, agreements and other documentation relating thereto.
 - F. Any performance bonus plan which is currently in effect or were in effect during the last five years.
 - G. Any deferred compensation programs affecting officers, directors or employees of the Company and the amount accrued and paid during the past five fiscal years under such programs and copies of any agreements or documentation relating thereto.
 - H. Any stock appreciation or stock option plan adopted or proposed to be adopted within the last five years; any option agreement, including a listing of any employee or director who has outstanding options (including with respect to each such employee the issuance date of the options, the number of shares of capital stock covered thereby, and the exercise price thereof), and any plan description furnished to participating employee.
 - I. Any agreement or understanding regarding indemnification of directors or officers.
 - J. Any management prerequisite, fringe benefit, profit sharing plan, pension plan, deferred compensation arrangement, and similar plan or arrangement currently in effect as to employees or directors (provide a written description of any such arrangement which is not in writing).

- K. Any labor contract, collective bargaining agreement, or employee-management pact covering any employee.
- L. Documents filed in the last five years with relevant employee relations, safety and civil rights authorities.
- M. Listing of any unfair labor practice and equal employment opportunity complaints lodged during the past five years involving the Company or any of its clients.
- N. Documents relating to unionization efforts or labor unrest.
- O. Employee manual and policy statements.
- P. Any documents relating to any transaction between the Company and any director, officer or beneficial owner of more than 5% of the stock of the Company.
- Q. Listing of any employment, agency partnership, consultancy or similar relationship with any individuals or entities outside of the United States.

VI. Intellectual Property/Licenses.

- A. Listing of all intellectual property rights owned by or licensed to the Company (e.g., patents, trademarks, service marks, copyrights, trade names, etc., including any applications therefore) and any agreement, license, or any other documentation related thereto.
- B. Any material government (federal, state, or local) or regulatory agency, license, permit, or authorization of any business activity, including any such activity which is pending or proposed to be obtained or required in related material documentation, together with a schedule thereof.
- C. Any correspondence, report and notice relating to laws and regulations administered by any federal, state, or local governmental agency received within the last five years.
- D. Any application, filing or report submitted to any federal, state or local governmental or regulatory agency in the past five years in connection with obtaining any license or permit for a similar right to operate businesses or receive compensation for reimbursement therefore.
- E. Listing of any investigation of the Company by any federal, state, local or foreign governmental agency or regulatory or licensing authority.
- F. Any reports, notices, or correspondence relating to any purported violation by the Company and any suspended or revoked governmental permits or licenses and copies of all other material correspondence with governmental agencies.

VII. Litigation.

- A. Copies of any correspondence or notices concerning the Company's compliance with occupational safety standards or civil rights, labor or environmental laws.

- B. Consent decrees, judgments, other decrees or orders, settlement agreements and other agreements to which the Company or any of its subsidiaries is a party or is bound, requiring or prohibiting any future activities.
- C. Schedule and brief description of all pending legal proceedings (including claims covered by insurance) to which the Company or an officer or director of the Company is a party, together, in each case, with the name of the court or agency in which the proceedings are pending, the date instituted, principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought.
- D. Any letters from counsel to accountants with respect to litigation or contingent liabilities over the past five years.
- E. Correspondence with insurers regarding any pending or threatened litigation, any judgment, order, or decree to which the Company or assets is subject.
- F. Correspondence relating to any federal, state or local governmental investigation of the Company, or its assets, contracts or business, or any officer or director of the Company.
- G. Listing of fines and penalties incurred by the Company arising out of its business and operations.
- H. Listing of any bankruptcy, criminal or other judicial proceeding pending, expected or completed within the past ten years involving the Company or any officer or director.
- I. Any correspondence relating to actual or alleged infringement of intellectual property rights of others in the past five years.
- J. Any notice, order or other correspondence relating to matters before any federal, state or local agency charged with environmental protection responsibilities to which the Company is or may be a party or by which they are or may be bound or affected.
- K. Environmental reports, studies or analyses prepared internally or by others relating to or affecting the Company, its assets or business.

VIII. Taxes.

- A. Any correspondence with any federal, state, local or other governmental authorities or agencies charged with tax collection or enforcement concerning adjustments or questioning compliance or positions taken by the Company or any of its subsidiaries within the past five years.
- B. All audit papers from most recently completed audit by any federal, state, local or other governmental authorities or agencies charged with the tax collection of the Company or any of its subsidiaries in the last five years.
- C. All federal, state, or local government tax returns filed within the past five years.

- D. All federal and state tax schedules filed by the shareholders of the Company, disclosing amounts reported by the Company.
- E. Listing of any positions claimed by any shareholder of the Company on his/her tax returns that differ from amounts reported therefore by the Company.
- F. Any agreements, consents, elections and waivers filed or made with any federal, state, local or other governmental authorities or agencies charged with tax collection or enforcement.
- G. Listing of all pending or threatened disputes and audits with regard to taxes of any type payable by the Company, together with copies of any correspondence and reports relating thereto.
- H. Any tax indemnification agreements, tax sharing agreements and tax allocation agreements involving the Company and other members of an affiliated group, including any joint venture agreement that has the effect of tax allocation agreements and a summary of how such agreement was carried out over the past five years.

IX. Insurance Policies.

- A. A schedule of all insurance policies maintained (including key personnel life insurance, directors and officers liability insurance, product liability insurance and bonding and surety contracts), including the type of coverage, annual premiums, name of insured, and term. To the extent insurance carriers or coverage have changed during that last five years, please so indicate.
- B. Any documentation regarding any self-insurance arrangement.
- C. Listing of all claims filed during the last five years.
- D. Methodology for determining reserves, including incurred but not reported claims for the last five fiscal years.

X. Other.

- A. All other documents and information which in the Company's judgment are significant with respect to any part of its business or which should be considered and reviewed in connection with evaluating the legal, business and financial condition of the Company.