

## Appendix D: East Carolina Angels Due Diligence Checklist

### EAST CAROLINA ANGELS DUE DILIGENCE CHECKLIST

The documents and materials itemized below should be reviewed for any financing. However, many early-stage companies will not have some or many of these documents, as certain events may not have occurred.

<u>Document Requested</u>		<u>Should Have</u>	<u>Date Received</u>	<u>Date Delivered</u>	<u>Reviewer(s) initial</u>	<u>Comments</u>
<b>I. General Corporate Materials (company, all subsidiaries, partnerships and joint ventures)</b>						
A.	Business plan, including executive summary, market analysis and plan, operational plan and complete financials					
B.	Minutes					
1.	Minutes of stockholders' meetings, including those of any predecessor corporations					
2.	Minutes of board of directors, including those of any predecessor corporation					
3.	Minutes of permanent committees of the board, including those of any predecessor corporations					
4.	Resolutions related to this offering and related transactions					
C.	Charter documents					
1.	Articles or certificate of incorporation, as amended to date, including current drafts of pending charter amendments, and recapitalization documents					
2.	Drafts of documents related to proposed reincorporation					
3.	By laws, as amended to date					
4.	Good standing (and tax) certificates					
5.	List of jurisdictions in which the company or any subsidiary or affiliate is qualified to do business					
D.	Corporate organization					
1.	List of officers and directors					
2.	Management structure organization chart					
3.	Stockholders' lists (including option and warrant holders), including number of shares and dates of issuance and consideration paid					
4.	Information regarding subsidiaries, i.e., ownership, date of acquisition of stock and/or assets, all closing binders relating to acquisitions					
5.	Information regarding joint ventures or partnership (i.e., partners, date of formation, all closing binders relating to joint ventures or partnerships).					
6.	Agreements relating to mergers, acquisitions or dispositions by the company or its subsidiaries or affiliates, significant assets or operations involving the company or any of its subsidiaries or affiliates since inception, including those of any predecessor or subsidiary corporations					
E.	Capital stock					
1.	Stock records, stock ledgers and other evidence of securities authorized and issued					
2.	Agreements relating to the purchase, repurchase, sale or issuance of securities, including oral commitments to sell or issue securities					
3.	Agreements relating to voting of securities and restrictive share transfers					
4.	Agreements relating to preemptive or other preferential rights to acquire securities and any waiver thereof					
5.	Agreements relating to registration rights					

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6.	Evidence of qualification or exemption under applicable laws for issuance of the company's securities					
7.	Documents relating to any conversion, recapitalization, reorganization, or significant restructuring of the company					
8.	Documents related to any Employee Stock Option Plan and/or a description and size of the option pool in the capitalization table					
<b>II. Litigation</b>						
<u>Document Requested</u>		<u>Should Have</u>	<u>Date Received</u>	<u>Date Delivered</u>	<u>Reviewer(s) initial</u>	<u>Comments</u>
A.	Any litigation, claims or proceeding settled or concluded, including those of any subsidiary or predecessor corporation					
B.	Any litigation, claims and proceedings, threatened or pending. Include potential litigation (e.g., employees who may be in breach of non-compete agreements with prior employers)					
C.	Any litigation involving an executive officer or director, including executive officers or directors of predecessor corporations and subsidiaries, concerning bankruptcy, crimes, securities law, or business practices					
D.	Any consent decrees, injunctions, judgments, other decrees or orders, settlements, agreements or similar matters					
E.	All lawyers' letters to auditors, including those of any predecessor corporations and subsidiaries					
<b>III. Legal and Regulatory Compliance</b>						
<u>Document Requested</u>		<u>Should Have</u>	<u>Date Received</u>	<u>Date Delivered</u>	<u>Reviewer(s) initial</u>	<u>Comments</u>
A.	Citations and/or notices received from government agencies, including those of any predecessor or subsidiary corporations, or with continuing effect from an earlier date					
B.	Any pending or threatened investigation or government proceeding					
C.	All material government permits, licenses, etc. currently in force, together with information regarding any such permits, licenses, etc., which have been canceled or terminated, required to carry out the business or operations of the company or its subsidiaries or affiliates, including such permits, licenses, etc., required by foreign federal, provincial or local authorities, and any evidence of exemption from any such permit or license requirement					
D.	All documents filed with any regulatory agency					
E.	Any material reports to and corresponding with any government entity, including those of any predecessor corporation or subsidiaries					
<b>IV. Employee Matters (includes items regarding any predecessor or subsidiary or affiliated corporations and all items currently in force and drafts of any pending amendments or new items)</b>						
<u>Document Requested</u>		<u>Should Have</u>	<u>Date Received</u>	<u>Date Delivered</u>	<u>Reviewer(s) initial</u>	<u>Comments</u>
A.	Employee agreements					
B.	Consulting contracts					
C.	Employee benefit and profit-sharing plans, including stock options, stock purchase, deferred compensation, and bonus plans or arrangements					
D.	All other employee compensation, bonus, incentive, retirement, benefit (e.g., life or health insurance, medical reimbursement plans, etc.), or similar plans					
E.	Employee confidentiality and proprietary rights agreements					
F.	Officers and directors questionnaires					
G.	Contracts with unions and other labor agreements					

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H.	Loans to and guarantees for the benefit of directors, officers or employees					
I.	“Key person” insurance policies					
J.	List of employees by office and department					
K.	Affiliation agreements with advertising agencies or public relations firms					
L.	Stock ownership of directors and of the five most highly compensated officers					
<b>V. Real Property</b>						
<u>Document Requested</u>		<u>Should Have</u>	<u>Date Received</u>	<u>Date Delivered</u>	<u>Reviewer(s) initial</u>	<u>Comments</u>
A.	Deeds					
B.	Leases of real property					
C.	Other interests in real property					
D.	Document(s) showing certification of compliance with, or any deficiency with respect to, regulatory standards of the company or any of its subsidiaries’ or affiliates’ facilities					
E.	Financing leases and sale and leaseback agreements					
F.	Conditional sale agreements					
G.	Equipment leases					
<b>VI. Intellectual Property Matters</b>						
<u>Document Requested</u>		<u>Should Have</u>	<u>Date Received</u>	<u>Date Delivered</u>	<u>Reviewer(s) initial</u>	<u>Comments</u>
A.	List of all foreign and domestic patents, patent applications, copyrights, patent licenses and copyright licenses held by the company					
B.	List of any trademarks, trademark applications, trade names, or service marks					
C.	Claims of infringement or misappropriation of others’ patents, copyrights, trade secrets, or other proprietary rights					
D.	Agreements in-licensing or acquiring any technology, including without limitation software licenses, patent licenses, or other technology licenses, or any development or joint development agreements					
E.	Agreements out-licensing, selling, or having liens against any IP, including without limitation software, patent, or other technology licenses, or any distribution or sales representative agreements					
<b>VII. Debt Financing</b>						
<u>Document Requested</u>		<u>Should Have</u>	<u>Date Received</u>	<u>Date Delivered</u>	<u>Reviewer(s) initial</u>	<u>Comments</u>
A.	All debt instruments, credit agreements, and guarantees entered into by the company, including leasing financing, which are currently in effect					
B.	All material correspondence with lenders, including all compliance reports submitted by the company or its accountants					
C.	Any loan and guarantees of third-party obligations					
D.	Any agreements restricting the payment of cash dividends					
E.	Any outstanding warrants or options provided to third parties					
<b>VIII. Other Agreements</b>						
<u>Document Requested</u>		<u>Should Have</u>	<u>Date Received</u>	<u>Date Delivered</u>	<u>Reviewer(s) initial</u>	<u>Comments</u>
A.	Marketing agreements					
B.	Management and service agreements					
C.	Forms of secrecy, confidentiality and nondisclosure agreements					
D.	Contracts outside the ordinary course of business					

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E.	Indemnification contracts and similar arrangements for officers and directors					
F.	Agreements with officers, directors, and affiliated parties					
G.	Any partnerships or collaboration agreements					
H.	Any agreements with governmental agencies or universities					
I.	Any agreements restricting the company's right to compete or other agreements material to the business					
J.	Any material insurance agreements (including property damage, third party liability, key employee, and directors and officers (D&O) insurance)					
K.	Agreements requiring consent or approvals or resulting in changes in rights in connection with change-of-control transactions					
<b>IX. Financial Information</b>						
<u>Document Requested</u>		<u>Should Have</u>	<u>Date Received</u>	<u>Date Delivered</u>	<u>Reviewer(s) initial</u>	<u>Comments</u>
A.	Audited/unaudited financial statements, including those of any predecessor corporations					
B.	Interim financial statements					
C.	Budget plan, including revisions to date with respect to the budget plan for the current fiscal year for the company and its subsidiaries and affiliates					
D.	Company's long-range strategic plan, any documents concerning its long-range plans, and any information concerning the company's compliance therewith					
E.	Disclosure documents used in private placements of the company or any of its subsidiaries or affiliates securities, or institutional or bank loan applications since inception					
F.	Any other material agreements with creditors					
G.	Significant correspondence with independent public accountants, including management letters					
H.	Any report, studies and projections prepared by management on the business, financial condition, planned operations and business plan of the company, its subsidiaries and affiliates					
I.	Any reports or studies prepared by outside consultants on the business or financial condition of the company, its subsidiaries, or its affiliates					
J.	Reports and materials prepared for the company's board of directors or a committee thereof					
K.	Contracts with investment bankers and brokers					
<b>X. Tax Matters</b>						
<u>Document Requested</u>		<u>Should Have</u>	<u>Date Received</u>	<u>Date Delivered</u>	<u>Reviewer(s) initial</u>	<u>Comments</u>
A.	Tax returns, including those of any predecessor corporation					
B.	Audit adjustments proposed					
<b>XI. Acquisitions and/or Divestitures</b>						
A.	Acquisitions or divestitures, including related documentation					
B.	Current plans or negotiations relating to potential acquisitions or divestitures					
<b>XII. Public Relations</b>						
A.	Annual reports and other reports and communications with stockholders, employees, suppliers, and customers					
B.	Advertising, marketing, and other selling materials					
<b>XIII. Press Releases and Clippings</b>						
A.	Analyst reports					
<b>XIV. Miscellaneous</b>						

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A.	All market research or marketing studies conducted concerning the company's business					
B.	Significant agreements currently in draft stage					
C.	Background check reports for the founder(s) and all key employees					