

Legal due diligence request list: company seeking admission onto AIM

Resource type: Standard document Status: Maintained Jurisdiction: United Kingdom

Standard document legal due diligence request list for the purposes of carrying out a due diligence exercise into a company that is seeking admission of its share capital to trading on AIM. For background information on due diligence in relation to AIM admissions, see *Practice note, Due diligence and verification: AIM companies*. Information received from the request list will enable the company and its advisers to draw up a legal due diligence report and collate and verify necessary information to be included in the admission document. The request list should be tailored to the specific business of the company that is being admitted to AIM so that only relevant information is requested. The directors will also be sent a questionnaire about their personal circumstances, interests in the company or its group, bankruptcies etc as required to be disclosed by paragraph (g) of Schedule Two to the AIM Rules.

PLC Corporate

1. INTRODUCTION

We are making this information request to assist our legal due diligence review in connection with the proposed application for admission to trading of the shares of [FULL COMPANY NAME] (**Company**).

When supplying copies of documents and other requested information, please comply with the following guidelines:

- (a) provide the appropriate documents or information, or an appropriate negative statement, as soon as is practicable;
- (b) do not wait until you have collected all the documents and information before responding to us - where you are unable to provide some answers or documents immediately, mark the question number with the words "to follow" and answer all remaining questions;
- (c) provide a written answer where the documents do not clearly explain the position;
- (d) where you are uncertain of the scope of any question, or the relevance of any information or document, please provide as much information as you can. Please work on the basis that we would rather be provided with too much rather than too little information;
- (e) where appropriate, differentiate between documents and information that is significant to the operation of the business of the Company [and its group of companies] and documents and information that are of low importance;
- (f) where the same information and documents are to be supplied in response to two or more different questions, you need not repeat your response if all appropriate cross-references are made; and
- (g) provide any documents requested in lever-arch files with an index, using the same headings and numbering system as this information request list.

Where the Company has subsidiaries or associated companies, please treat any request for information relating to the Company as applying to each of the Company's subsidiaries or associated companies.

[NAME OF FIRM]

[DATE]

Please provide the following information and documents:

2. CORPORATE DATA AND STRUCTURE

2.1 Details of the following in relation to the Company:

- (a) full company name;
- (b) any business name(s);
- (c) registered office address;
- (d) registered number;
- (e) date of incorporation;
- (f) place of incorporation; and
- (g) name under which it was incorporated and any subsequent name changes.

2.2 Details of any interests that the Company has in any other entity.

2.3 A chart of the Company's subsidiaries [and associated companies] (**Company's Group**).

2.4 Details of all branches, agencies or places of business of the Company.

2.5 Copies of the Company's annual returns for the last [five] years.

2.6 Copies of the Company's memorandum and articles of association and any amendments to those documents.

2.7 Copies of the Company's shareholder resolutions passed in the last [five] years.

2.8 Copies of the minutes of all meetings of the Company's board and board committees held during the last [five] years which are material to the business of the [Company **OR** Company's Group].

2.9 The name of the company secretary of the Company and confirmation from him or her that all of the Company's corporate records are up-to-date.

2.10 Copies of the Company's register of members, charges, other statutory registers and minutes books or, if they cannot readily be copied, the address at which they can be inspected.

2.11 Copies of any shareholder agreements, share subscription agreements or other relevant agreements regulating the relationship of the shareholders of the Company.

2.12 A list of the names of the Company's authorised signatories and the terms of their authority.

2.13 Details of any loans or other indebtedness granted to directors of the Company, or any person connected with a director of the Company, or any guarantees or sureties provided by the Company for the benefit of any such directors or persons connected with such directors.

2.14 Details of the authorised share capital of the Company (if relevant).

2.15 Details of the issued shares in the Company, including:

- (a) legal and beneficial ownership;
- (b) whether the shares are fully paid up;
- (c) classes of shares; and

(d) voting rights attaching to the shares.

2.16 Details of any rights of pre-emption over the sale and transfer of shares in the Company and any approvals or consents required for such sale and transfer.

2.17 Details of any options, contracts, warrants, schemes, rights, interests, security or other encumbrance over the share capital of the Company.

2.18 Details of any restrictions on who can hold shares in the Company.

2.19 Details of any insolvency proceedings and insolvency-related matters in relation to the Company or the Company's Group.

3. FINANCE

3.1 Copies of the Company's audited accounts and directors' reports for the last [three] financial years, a statement of accounting policies adopted in the audited accounts and management accounts and details of any changes in accounting policies.

3.2 Copies of any consolidated accounts for the Company's Group together with the notes to such accounts and the auditor's and directors' reports for the last [three] financial years.

3.3 Copies of all other relevant financial information for the Company or the Company's Group, including non-audited accounts, management accounts, financial statements and auditors' reports, notes and certificates for the last [three] financial years.

3.4 The Company's accounting reference date.

3.5 Details of any material change in the business or prospects of the Company occurring since the date of the last audited accounts of the Company, including the following:

(a) any debts outstanding which have been due for more than [four] weeks;

(b) any unusual change in the stock levels, current assets or liabilities of the Company;

(c) any loss of, or material reduction in, orders from any customer, or the loss of or material reduction in any source of supply, or any abnormal factor not affecting similar businesses to a like extent, which has adversely affected the business of the Company;

(d) any alterations in the terms of employment or conditions of service of any employee, or in the pension or other benefits of any employee or any past officer or employee of the Company or any other dependants;

(e) any changes in the fixed assets of the Company, including the loss, damage or destruction of any fixed assets;

(f) any material adverse change in the financial position or trading prospects of the business of the Company or the Company's Group and whether any such material change is expected;

(g) any acquisition or disposal, or agreement to acquire or dispose of, any asset other than trading stock in the ordinary and usual course of business of the Company;

(h) any capital commitments or material liabilities [in excess of £[AMOUNT]] that the Company has assumed or incurred or agreed to assume or incur;

(i) any debtor of the Company that has been released by the Company on terms that it pays less than the book value of any debt and any debt that has been written off or has proved to be irrecoverable to any extent;

(j) any change in the manner or time of the issue of invoices or the collection of debts of the Company;
and

(k) all dividends and other distributions of the Company due, made or declared or any bonus issues, reductions in capital or repayments of capital.

3.6 Name(s) and address(es) of the Company's bank(s).

3.7 Details and copies of documents relating to all bank facilities and accounts (including bank statements for the last [three] years and copies of all existing mandates) in relation to the Company.

3.8 Details and copies of documents relating to the current level of overdraft, loan, credit facilities and other borrowings by the Company.

3.9 Details and copies of documents relating to all debentures, mortgages, charges, guarantees, indemnities and comfort letters or other security or assurances for payment given by or to the Company.

3.10 Summaries and copies of all documents relating to intra-group loans, commitments and obligations outstanding and all intra-group agreements between members of the Company's Group.

3.11 Confirmation that no notice requiring repayment has been served, and that the Company has not breached any covenant contained in, any charge, debenture or guarantee, loan agreement, facility letter or similar document.

3.12 Details and copies of all documents relating to any grants, subsidies or financial assistance given to the Company (whether by Government body or otherwise).

4. CORPORATE AND COMMERCIAL AGREEMENTS

4.1 Details and copies of any joint venture agreement or arrangement to which the Company is party.

4.2 Details and copies of any share or asset purchase agreement to which the Company is party.

4.3 Copies (or details where copies are not available) of any agreement, contract, transaction, obligation, commitment, understanding, liability or arrangement (written or oral) of the Company which is material to the business of the Company or the Company's Group.

4.4 Copies of all standard terms and conditions of sale or purchase currently used by the Company.

4.5 Copies of all agreements with the Company which cannot be terminated on [one] month's notice without payment of compensation.

4.6 Copies of contracts for the sale of any product, or the provision of any service, by the Company which have more than [six] months to run or under which any discounts or special terms are being granted to customers.

4.7 A list of all major customers (that is, customers accounting for more than [NUMBER]% of turnover for [the Company **OR** the Company's Group]) and major suppliers (that is, suppliers accounting for more than [NUMBER] % of goods supplied to [the Company **OR** the Company's Group]) and details of agreements with those customers and suppliers, including details of the value of sales in the last year for major customers and the value of goods supplied in the last year for major suppliers and copies of any standard terms of business used by those customers and suppliers.

4.8 Copies of all hire purchase, rental, leasing or similar agreements entered into by the Company or to which it is subject.

4.9 Copies of all licences, franchising, merchandising, marketing, purchasing, manufacturing, factoring, agency and distribution agreements entered into by [or on behalf of] the Company.

4.10 Details of any negotiations of material importance to the Company that are currently in progress.

4.11 Details of any outstanding quotation or tender for a contract that would fall within paragraph 4.3 above.

4.12 Copies of any contracts or arrangements currently in operation which are liable to termination or alteration on the change in shareholders of the Company, or on a flotation.

4.13 Details of any default or alleged default by the Company or any party to any agreement with the Company.

4.14 Details of any products manufactured, sold or distributed by the Company which are or may become defective or do not comply with any express or implied warranties given by the Company.

4.15 Details of contracts or arrangements that have been entered into with any entities or persons connected (directly or indirectly) with the Company, including any director or shareholder of the Company.

5. BUSINESS ASSETS (EXCLUDING REAL PROPERTY)

5.1 A list and details of all assets owned by the Company and details of any purchase price outstanding.

5.2 Details and copies of documents relating to any liens, mortgages, charges, security, claims, encumbrances, pledges, options, rights, leases, hire purchase agreements, retention of title, other restrictions or adverse rights of any description over the assets referred to in paragraph 5.1 above or commitments and agreements to create any of the same over the assets referred to in paragraph 5.1 above.

5.3 Details and copies of documents relating to all motor vehicles owned or hired by the Company, including log books and insurance arrangements.

6. REAL PROPERTY

6.1 A schedule of all freehold properties owned by the Company and occupied, used or controlled in relation to the business of the Company (together with copies of title deeds), including the following details in respect of each property:

- (a) short address of the property;
- (b) description of the property;
- (c) title number;
- (d) area;
- (e) site plan;
- (f) rights benefiting the property;
- (g) third party rights to which the property is subject;
- (h) current use; and
- (i) value.

6.2 A schedule of all leasehold property owned by the Company and occupied, used or controlled in relation to the business of the Company and all licences to occupy such property held by the Company (together with copies of title deeds including all leases, head leases, subleases and licences) including the following details:

- (a) short address of the property;

- (b) description of property and the lease or licence;
- (c) name of the freehold owner;
- (d) title number (if relevant);
- (e) area;
- (f) site plan;
- (g) rights benefiting the property;
- (h) third party rights to which the property is subject;
- (i) current use;
- (j) term and term commencement date of any lease or licence;
- (k) annual rent or fee payable;
- (l) consent(s) required to assign the lease or licence to the Buyer;
- (m) rent review dates (if relevant);
- (n) evidence of all past rent reviews (if relevant);
- (o) value; and
- (p) service charge accounts for the last three years (if relevant).

6.3 Details and copies of documents relating to any other real property occupied, used or controlled by the Company or in respect of which the Company has any estate, interest, right or liability (whether actual or contingent, secondary or otherwise).

6.4 Written authority to inspect the title of any properties owned, occupied, used or controlled by the Company or in respect of which the Company has any estate, interest, right or liability (whether actual or contingent, secondary or otherwise) (**Properties**).

6.5 Details and copies of documents relating to any leases, tenancies or licences to occupy granted by the Company in respect of any of the Properties, together with details of any third party rights over the Properties and receipts for all rent paid by any lessee, tenant or licensee.

6.6 Copies of any replies to preliminary enquiries and requisitions on title relating to any of the Properties acquired within the last [three] years.

6.7 Details of any mortgage, debenture, charge, lien or other right in the nature of security or any option, right of pre-emption or right of first refusal affecting any of the Properties.

6.8 A copy of the latest valuation of [all] the Properties [with a valuation in excess of £[AMOUNT]].

6.9 Details and copies of documents relating to any rights of way, easements or other rights over land which the Company does not own or have any interest in but which is required for the current use of the Properties.

6.10 Details of any covenants, restrictions, stipulations or other encumbrances (whether of a private or public nature) affecting the Properties which are of an onerous or unusual nature, or affect their value, or which conflict with the current use of the Properties.

6.11 Details of all covenants, restrictions, stipulations and other encumbrances affecting the Properties (including any covenants under any leases or any consents or approvals obtained under them) and confirmation of observance and performance of them by the Company [and its predecessors in title] and any lessee, tenant, licensee or occupier of the Properties.

- 6.12 Details of any express or implied waiver by the Company (or anyone on its behalf) of any breach by any tenant or other person of any covenant, agreement, restriction, stipulation or obligation relating to the Properties or any part of them or of which the Properties or any part of them has the benefit.
- 6.13 Details of any circumstances which (with or without taking other action) would entitle any third party to exercise a right of entry to, or take possession of, all or any part of the Properties, or which would in any other way affect or restrict the continued possession, enjoyment or use of any part of the Properties.
- 6.14 Details of any matters which are registered as local land charges in relation to the Properties or, although not registered, are capable of registration as local land charges.
- 6.15 Details of the state of repair and condition of the Properties and whether they are fit for their current use.
- 6.16 Details of any deleterious materials that have been used in the construction, alteration or repair of any of the Properties, including high alumina cement, woodwool, calcium chloride, sea-dredged aggregates and asbestos material.
- 6.17 Details of any flooding, subsidence, heave or structural or drainage defects affecting the Properties now or in the past.
- 6.18 Details of any adverse report received by the Company from any engineer, surveyor or other professional relating to any of the Properties and whether the Company is aware of any predecessor in title having received the same.
- 6.19 Confirmation that the current use of the Properties is the permitted use for the purposes of planning legislation.
- 6.20 Copies of all necessary planning permissions and building regulation consents obtained for the current use of the Properties and any alteration and improvements to them.
- 6.21 Confirmation that the Company has complied with all applicable statutory and bye-law requirements relating to the Properties and their current use.
- 6.22 Details and copies of any licences or permits required to use or develop any of the Properties.
- 6.23 Details of any development works, redevelopment works or fitting-out works:
1. outstanding in respect of any of the Properties; and
 2. carried out within the previous twelve years.
- 6.24 Details of any notices, complaints or requirements that have been issued or made (whether formally or informally) by any competent authority or undertaking exercising statutory or delegated powers in relation to any of the Properties, the current use of the Properties or any machinery, plant or equipment in them, and whether the Company is aware of any matter which could lead to any such notice, complaint or requirement being issued or made.
- 6.25 Details of any claim or liability outstanding under planning legislation in respect of the Properties, or any agreement affecting the Properties under section 106 of the Town & Country Planning Act 1990 (as amended).
- 6.26 Details of any notice, order or resolution that has been issued, made or passed by any local county or other competent authority for the compulsory acquisition, closing, demolition or clearance of the Properties or any part of them, and whether the Company is aware of any matter or circumstance which would lead to any such notice, order or resolution.

6.27 Details of any existing dispute between the Company and the owner or occupier of any other premises adjacent to or neighbouring the Properties and whether the Company expects or is aware of any circumstances which may give rise to any such dispute.

7. EMPLOYEES

7.1 An anonymised list of all employees and directors wholly or mainly employed by the Company, showing the following details:

- (a) job description;
- (b) date of birth;
- (c) length of continuous employment;
- (d) present pay;
- (e) bonus, incentive arrangements and all other benefits;
- (f) hours of work; and
- (g) notice period for termination of employment or expiry date of fixed-term employment.

7.2 Anonymised details of anyone working for or in the Company who is not an employee of the Company (as specified in paragraph 7.1 above).

7.3 Details of any offer of employment or engagement made by the Company which are still outstanding or which have been accepted but the employment or engagement has not yet commenced.

7.4 Copies of the service agreements for all executive directors employed by the Company and any other documents recording the terms of all other agreements and arrangements which affect any executive director's service contract, whether as an employee or otherwise.

7.5 Copies of the letters of appointment for all non-executive directors engaged by the Company and details and copies of any other documents which record the terms of their engagement.

7.6 Anonymised details and copies of the contracts of employment of all employees of the Company which are not terminable on [three] months' notice or less.

7.7 A list of those employed or engaged by the Company who are regarded as key workers of the Company, together with copies of their contracts.

7.8 A copy of the standard contract(s) of employment for employees and anonymised details of anyone not employed on a standard contract, together with copies of their contracts of employment.

7.9 A copy of the staff handbook.

7.10 Details of (and copies of any relevant documents relating to) any existing or proposed bonus, commission, profit-sharing scheme, share option scheme, share incentive scheme or any other scheme or arrangement under which the employees or any of them are or would be entitled to participate in the profits of the business of the Company or acquire shares in the Company.

7.11 Details of (and copies of any relevant documents relating to) any existing or proposed scheme (whether contractual or not) to provide payments of benefits on redundancy or other termination.

7.12 Details of any loans made to employees or guarantees provided by the Company for the benefit of an employee.

- 7.13 Details of any offers, promises or agreements to any future variation in any contract of employment of the employees.
- 7.14 Details of any current negotiations for an increase in the remuneration or benefits of any employee or any such negotiations that are likely to take place in the next [NUMBER] months.
- 7.15 Details of any employee who has received or has given notice, or is likely to give notice, to terminate their employment with the Company, including details of the reasons for such notice.
- 7.16 Details of any planned dismissal of any key worker.
- 7.17 Details of any employee who has been off sick for a period of [21] days or more in any [six]-month period within the last [three] years (whether or not consecutive).
- 7.18 Details of any employee who is receiving or is due to receive payment under any sickness or disability or permanent health insurance scheme and any pending or threatened claims for such payment.
- 7.19 Details of any person currently or previously employed by the Company who is on secondment, long-term sick, maternity or other leave or who has a right to return to work or a right to be reinstated or re-engaged by the Company or to any other compensation.
- 7.20 Details and copies of any consultancy agreements or other agreements for the provision of services by workers, consultants or contractors and whether they are subject to the Commercial Agents (Council Directive) Regulations 1993.
- 7.21 Details of any existing or likely dispute, claim or legal proceedings (whether arising under contract, common law, statute or in equity or otherwise) in which the Company is engaged or involved in relation to employees, former employees or trade unions, staff association, staff council, works council or other organisation formed for a similar purpose, together with details of any severance pay and costs incurred (or likely to be incurred).
- 7.22 Details of any amounts outstanding or promised to any employees, workers, consultants or contractors and any liability incurred by the Company which remains undischarged for breach of any employment contract, redundancy payment (statutory or otherwise, including protective awards), compensation under any employment legislation or regulations or wrongful dismissal, unfair dismissal, equal pay, sex, race or disability discrimination or otherwise.
- 7.23 Details of any inquiries or investigations existing, pending or threatened into the Company by the Equal Opportunities Commission, the Commission for Racial Equality, the Disability Rights Commission or other similar authorities or any facts that the Company is aware of that might give rise to the same.
- 7.24 Details of any relevant transfer for the purposes of TUPE occurring in the last [ten] years, to which the Company has been a party, that affected any of the employees or any other persons currently engaged by the Company, including details of:
- (a) any variation of any such persons' terms and conditions of employment varied for any reason as a result of or connected with such transfer;
 - (b) details of any dismissal connected to such transfer;
 - (c) details of any failure to comply with obligations to inform or consult in connection with such transfer or any redundancy affecting such persons or any employee of the Company; and
 - (d) details of any right to an early retirement pension on redundancy or other dismissal existing prior to such transfer or affecting any person employed by the Company.

7.25 Details of any trade union, staff association, staff council, works council or other organisation formed for a similar purpose and copies of all regulations, agreements, arrangements and negotiations with that body and minutes of meetings held with management in the last [two] years.

7.26 Details of collective bargaining, procedural or other agreements or arrangements (whether in writing, oral or by custom and practice) in existence relating to or relevant to any employees of the Company.

7.27 Details of the current state of any negotiations with any trade union, staff association, staff council, works council or other organisation formed for a similar purpose, or with employee representatives, which might affect the terms and conditions of employment, working arrangements or severance payments of any of the employees of the Company.

7.28 Details of current and historic labour relations including any strike experience or other disturbances.

8. PENSIONS

8.1 Details and copies of relevant documents relating to any pension scheme(s) operated by the Company including:

- (a) trust deeds and rules;
- (b) employee booklets and notices;
- (c) names of the present trustees and actuary;
- (d) actuarial valuations, trustees' annual reports and annual audited accounts for the last [two] years;
- (e) details of the current rate of the employer's and employees' contributions to the scheme(s) and any proposed alterations to the current arrangements;
- (f) details of insurance premiums, taxes and expenses paid in relation to the scheme(s);
- (g) a list of all existing members of the pension scheme(s) (and those likely to become members within the next [six] months) including sex, date of birth, date of joining the scheme(s), current pensionable salary, and any additional benefits granted or additional contributions made;
- (h) details of any ex gratia or unapproved pension arrangements granted to employees;
- (i) confirmation that the scheme(s) are registered schemes within the meaning of Chapter 2 of Part 4 of the Finance Act 2004 and details of any reason of which the Company is aware as to why the pension scheme(s) may cease to be registered; and
- (j) copy of the contracting-out certificate(s) under the Pension Schemes Act 1993.

8.2 A list of any employees of the Company not participating in the pension scheme(s).

8.3 Has the Company facilitated access for its employees who are not members of the pension scheme(s) to a designated stakeholder scheme?

8.4 Have the trustees and the Company complied with all relevant pensions legislation and the rules of the pension scheme(s)?

8.5 Details of any whistleblowing reports or reports to the Pensions Regulator.

8.6 Has the company any liability under any financial support direction or any contribution notice?

8.7 Details of any claims or complaints that have been made or are pending or threatened in relation to the pension scheme(s) or in respect of the provision of (or failure to provide) pension, lump sum, death or ill-health benefits by the Company.

8.8 Details of any former pension scheme(s) that applied before the current scheme(s).

8.9 Details of any scheme that has received or is receiving contributions from an European employer (as defined for the purposes of Part 7 of the Pensions Act 2004).

9. INTELLECTUAL PROPERTY RIGHTS

9.1 A list, details and, where relevant, copies of documents relating to all intellectual property rights including, patents, rights to inventions, utility models, copyright, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of those rights, and all similar or equivalent rights or forms of protection in any part of the world, and the benefit (subject to the burden) of any and all agreements, arrangements and licences in connection with any of the foregoing, owned, used, enjoyed, exploited or held for use by the Company (**IPR**) together with any IPR which are required to fulfil any contracts of the Company.

9.2 Confirmation that all IPR are valid and subsisting and that all registrable IPR have been registered.

9.3 Details and a copy of the last intellectual property audit conducted by the Company.

9.4 Details of the annual costs of maintenance of all registered IPR (including any agents' fees) and receipts for payment of all renewal and registration fees for the protection of registered IPR.

9.5 Details of IPR which the Company owns jointly or in common with any other person.

9.6 A list, details and copies of documents in relation to all agreements, arrangements and licences of IPR which have been granted to the Company by third parties and confirmation that those agreements are in full force and effect.

9.7 A list, details and copies of documents in relation to all agreements, arrangements and licences of IPR that the Company has granted to third parties and confirmation that those agreements are in full force and effect.

9.8 Details of any claims, liens, equities, encumbrances, licences and adverse rights of any description affecting the IPR.

9.9 Details of any disputes, complaints, objections, challenges or claims for infringement, subsistence, validity or ownership of IPR or any legal proceedings threatened or brought in relation to the IPR.

9.10 Details of any existing, suspected or alleged infringement of third party intellectual property rights by the Company and any obligation on the Company to pay any royalty, fee, compensation or any other sum whatsoever in respect of that infringement.

9.11 Details of any outstanding or potential claims against the Company, under any contract or relevant legislation, for employee compensation in respect of any IPR.

9.12 Confirmation that the Company has in its exclusive possession and control all information, know-how and techniques used, enjoyed or exploited by the Company (or held with a view to such use, enjoyment or exploitation).

9.13 Details of the internal procedures for the protection of IPR and in particular for the disclosure of any confidential information either by or to the Company's Group.

9.14 Confirmation that information of a confidential nature that has been developed or acquired by the Company or any member of the Company's Group in the last [five] years has been kept strictly confidential and has not been disclosed otherwise than subject to an obligation of confidentiality being imposed on the person to whom that information was disclosed.

9.15 Details of any confidentiality undertakings, except in the ordinary course of business or with its employees, that the Company has entered into with any third party in relation to IPR.

10. COMPUTER SYSTEM AND DATA

10.1 Details of the computer hardware, software and networks owned or used by the Company (**Computer System**).

10.2 Copies of all agreements relating to the supply, financing, maintenance and support of the Computer System.

10.3 Details of any element of the Computer System owned by third parties and licensed or leased to the Company, including copies of any relevant agreements.

10.4 Details and copies of any licence by the Company of the Company's proprietary software to third parties.

10.5 Details of any agreements relating to the Computer System which preclude the manner in which any element of the Computer System is currently being used by the Company.

10.6 Details of whether the Computer System is date-change compliant.

10.7 Details confirming the extent to which the Computer System is able to perform its monetary functions in the euro and in all national currencies necessary for the carrying on of the Company's business.

10.8 Details of any disaster recovery arrangements, facilities management and ongoing support arrangements, including details of service levels and charges.

10.9 Details of whether the Company is dependent on any third party for the maintenance of any element of the Computer System, including details of service levels and charges.

10.10 Details of and copies of documents relating to whether the Company has access, or rights of access, to the source code of the key licensed software in order to ensure adequate maintenance and updating of that software.

10.11 Details of procedures employed by the Company to monitor compliance with the terms of software licences used by the Company, including whether these procedures monitor the use of software by the Company to ensure that multiple copies of any software are not used in breach of the terms of the relevant licences.

10.12 Details of any disputes between the Company and any third party in respect of any matter relating to the Computer System or between the supplier of any element of the Computer System and a third party which may affect the continued use of that element by the Company.

10.13 Details of any circumstances of which the Company is aware in which the Company may lose the benefit of any of the software licences it holds.

10.14 Details of anything that the Company has done or omitted to do which might constitute a breach of or grounds for termination of any of the agreements relating to the Computer System.

10.15 Details of any recurring technical problems with the Computer System.

10.16 Details and a copy of the last intellectual property audit conducted in relation to the Computer System and its operation.

10.17 Does the Company own IPR (including copyright) in the design and content of the Company's website?

10.18 Details of any element of the Computer System for which the Company owns the IPR, including details of the author of that element of the Computer System, whether the author was an employee or consultant and the terms of employment or consultancy contract with the author.

10.19 Details of any IPR that have been registered in respect of any elements of the Computer System developed by the Company.

10.20 Details of insurance cover in respect of any loss that Company may incur related to the Computer System.

10.21 Is all data used in the Company's business held on the Computer System?

10.22 Details of procedures employed by the Company to monitor compliance with data protection legislation.

10.23 Copies of all data processing contracts entered into by the Company.

10.24 Details of any tenders that the Company has submitted for contracts, or arrangements that the Company has entered into, with any entities which are public authorities within the meaning of the Freedom of Information Act 2000 (FOIA).

10.25 Does the Company hold any information on behalf of a public authority within the meaning of the FOIA? Has the Company received any request to assist in responding to a request for information under the FOIA?

11. LITIGATION

11.1 Particulars of, and copies of relevant documents relating to, any ongoing or threatened litigation, arbitration, mediation or similar proceedings or disputes with third parties relating to or affecting the Company [estimated to be in excess of £[AMOUNT] in value] [occurring in the last [NUMBER] years] including the following:

- (a) the names of the parties involved;
- (b) the sum claimed;
- (c) brief details of the issues;
- (d) estimated costs incurred to date and likely to be incurred in the future; and
- (e) brief details of the merits, any advice received and the likely outcome.

11.2 Details of any existing or pending judgments affecting the Company.

11.3 Details of any general or specific provision made by the Company in relation to the recovery of outstanding book debts.

11.4 Details of anything which may give rise to any investigation, enquiry or enforcement proceedings or process in relation to the Company by any governmental, administrative or regulatory body.

12. INSURANCE

12.1 Details, and copies, of documents relating to all insurance arrangements that the Company has in place, including details of the nature and amount of cover, name and address of insurer, annual premiums (including evidence of latest premiums paid), renewal date and any outstanding claims.

12.2 The name and address of the Company's insurance broker, if any.

12.3 Confirmation that the assets of the Company are, and have they been at all material times, insured to their full replacement or reinstatement value in accordance with generally accepted practice with a well-established and reputable insurer against fire and all other risks customarily insured against?

12.4 Does the Company have in place, and has it had in place at all material times, insurance giving adequate cover against accident, damage, injury, third party loss (including product liability) and all other risks normally insured against by persons carrying on a similar business to the business of the Company?

12.5 Are any of the policies of insurance taken out by the Company which are subject to any special or unusual terms or restrictions, or to the payment of any premium in excess of the normal rate?

12.6 Are there any circumstances likely to give rise to a claim under insurance policies held by the Company and has anything been done or omitted to be done which has made or could make any policy of insurance void or voidable, its renewal refused or its premiums likely to be increased?

13. CONSENTS

Details and copies of all necessary licences, consents, concessions, registrations, approvals, permits, exemptions, agreements, arrangements and authorities (public and private) (**Consents**) required for the operation of the business of the Company, including:

- (a) whether the Consents are valid and subsisting;
- (b) dates for renewal of the Consents;
- (c) any onerous conditions attached to the Consents; and
- (d) any reason for the Consents to be suspended or cancelled or revoked.

14. COMPETITION

14.1 Details and copies of documents relating to any agreement, arrangement or practice, to which the Company is now party or has been a party in the past, and any course of conduct or practice in which the Company has been engaged which contains restrictions or other provisions which has given or could give rise to competition issues in any relevant jurisdiction.

14.2 Details of any "special sector" regulation to which the Company is subject.

14.3 Details and copies of documents relating to any competition law compliance programme run by the Company.

14.4 Details and copies of documents relating to any agreement, arrangement or practice, to which the Company is party, which restricts the Company's freedom to carry on the whole or any part of its business in the manner in which it is now carried on in any part of the world.

15. ENVIRONMENT

15.1 Copies of all reports and other documents relating to any environmental audits, investigations and other assessments in respect of the business of the Company or any of the Properties.

15.2 Details and copies of all permits, licences, consents, registrations, exemptions and other authorisations required in respect of the business of the Company or any of the Properties under any environmental law (**Environmental Permits**), including details of:

- (a) whether the Environmental Permits are in full force and effect;

(b) any onerous conditions attached to the Environmental Permits; and

(c) any facts or circumstances that may lead to the revocation, suspension, variation or non-renewal of any of the Environmental Permits.

15.3 Details of any known, alleged or suspected breach by the Company of any Environmental Permit or environmental law.

15.4 Details of any:

(a) investigations, disputes, complaints, claims, prosecutions or other proceedings against or threatened against the Company or any of its directors, officers or employees; and

(b) enforcement, prohibition, stop, remediation, improvement or other notice received by or threatened against the Company,

in respect of any actual or alleged breach of any Environmental Permit or environmental laws or any environmental matter (including any contamination, pollution, nuisance or injury or damage to person or property).

15.5 Details of:

(a) the presence or migration of any known or suspected contamination, pollution or hazardous substance (including asbestos containing materials) which is present at, on, under, to or from any of the Properties; and

(b) any expenditure [in excess of £[AMOUNT]] required or likely to be required in respect of any such contamination, pollution or hazardous substance.

15.6 Details of how the Company disposes of all waste, including details and copies of any agreements currently in place with any third party for the disposal of waste.

15.7 Details and copies of any environmental policy or environmental management system operated by the Company.

15.8 Details of any insurance cover held by the Company in respect of any environmental matters and any claims made or contemplated under any such insurance.

15.9 Details of any known or suspected liabilities of the Company under environmental law or in respect of any environmental matter in relation to any properties formerly owned, used or occupied by the Company.

16. HEALTH AND SAFETY

16.1 Details of the Company's established procedures and compliance with all conditions, limitations, obligations, prohibitions and requirements contained in any health and safety laws regarding those who work for or visit the Company or are otherwise affected by it.

16.2 Copies of the Company's current health and safety policy statements, health and safety reports and assessments [carried out in the last [five] years], audits, records of accidents and reportable diseases, permits, notifications, certificates and records required by health and safety laws in relation to the Company's activities or any of the Properties.

16.3 Details of:

(a) any investigations, disputes, complaints, claims, prosecutions or other proceedings against or threatened against the Company or any of its directors, officers or employees in respect of accidents, injuries, illness, disease or any other harm to the health and safety of employees (including former employees), contractors or any other persons caused by any breach of health and safety laws or otherwise; and

(b) any facts or circumstances which may lead to any such investigations, disputes, complaints, claims, prosecutions or other proceedings.

16.4 Copies of any prohibition, improvement or enforcement notices received by the Company in respect of any health and safety matter from any relevant enforcement authority, including the Health and Safety Executive and the relevant local authority.

16.5 Details of the Company's employer's liability and public liability insurance cover and details of any claims relating to health and safety that have been made or are contemplated under any such insurance policies.

17. TAX

17.1 In respect of the tax administration of the Company:

(a) provide copies of all corporation tax returns submitted in respect of accounting periods ended in the last six years prior to completion;

(b) in relation to any corporation tax returns that are the subject of an enquiry by HM Revenue & Customs, provide full details of all matters which are in dispute;

(c) provide details of any investigation (other than routine enquiries of a minor nature) by any authority responsible for the collection of taxation and/or social security contributions in which it is currently involved or which has occurred within the last six years; and

(d) confirm that it has made, in a timely manner, all payments, deductions, withholdings or reductions as it should have made in respect of any remuneration or benefits of any kind paid or provided to employees, sub-contractors or workers supplied by agencies in respect of taxation, national insurance or social security contributions and that it has kept proper books and records relating to the same.

17.2 Confirm that the Company is not, and never has been, liable to taxation in any jurisdiction other than the UK and that the Company has no assets outside of the UK.

17.3 In respect of the Company, confirm that, as at completion:

(a) no claims for the surrender of group relief by or to it will be outstanding in any respect;

(b) that it is not a member of any group payment arrangement pursuant to section 36 of the Finance Act 1998;

(c) that it [or its parent company] has no surplus advance corporation tax (ACT) and that it has not offset surplus ACT since 6 April 1999;

(d) it has made no election under sections 171A or 179A of the Taxation of Chargeable Gains Act 1992 (TCGA 1992) or under section 792 of the Corporation Tax Act 2009 (CTA 2009); and

(e) the admission to trading of the shares of the Company will not give rise to a tax liability accruing in the Company pursuant to section 179 of TCGA 1992 or section 780 of CTA 2009.

17.4 In respect of the Company, confirm that:

- (a) the Company is not registered, neither is it required by section 59 of the Finance Act 2004 to register, as a contractor in the construction industry scheme; and
- (b) if it is a "sub-contractor" for the purposes of chapter 3 of part 3 of the Finance Act 2004, it has registered for gross payment and such registration has not been revoked.

17.5 Confirm that the Company, for the purposes of value added tax (VAT):

- (a) is registered but is not, and has not been, a member of a group of companies including any company other than the Company and its subsidiary undertakings;
- (b) has not been required to give security for payment of VAT or for customs duties and/or is not required to pay amounts on account of VAT under any order made under section 28 of the Value Added Tax Act 1994 (VATA 1994);
- (c) has maintained and obtained complete, correct and up-to-date records, invoices and other documents appropriate or requisite for VAT purposes and has preserved such records, invoices and other documents in such form and for such periods as is required;
- (d) owns no assets to which Part XV of the VAT Regulations 1995 (capital goods scheme) may apply; and
- (e) has neither opted to tax nor made a real estate election within the meaning of Schedule 10 to VATA 1994.

17.6 In respect of the Company, confirm that there are no material differences between the book values of its fixed assets and their base costs for chargeable gains purposes.

17.7 In respect of capital allowances, the Company has:

- (a) details of all expenditure incurred by it on plant and machinery and on permanent fixtures; and
- (b) adequate records to determine expenditure which is eligible.

17.8 Confirm that the Company is not a close company (as defined in sections 439 to 447 of the Corporation Tax Act 2010) or, if a close company, that it is not a close investment holding company (as defined in section 34 of the Corporation Tax Act 2010).

17.9 Confirm that the Company has not entered into, or been party to, any scheme, the main purpose, or one of the main purposes of which, was the avoidance of tax.

18. COMPLIANCE

18.1 Details of any circumstance, event, act or omission which might give rise to the assertion that the Company or any of its officers, agents or employees have done or omitted to do any act or thing which is or could be in contravention or breach of or the subject of inquiry, investigation or proceedings under the provisions of any statute, order or regulation made in any relevant jurisdiction giving rise to any fine, penalty, default, proceedings or other liability.

18.2 Details of whether all legislation and all orders, provisions, directions and conditions relating to the Company (including VAT) have been complied with in all respects.

Resource information

Resource ID: 0-201-2218

Products: Alternative Investment Market, PLC UK Corporate, PLC UK Corporate Firmstyle, PLC UK Law Department

This resource is maintained, meaning that we monitor developments on a regular basis and update it as soon as possible.

Resource history

Corporation Tax Act 2010

Updated statutory references in paragraph 17.8 following the Corporation Tax Act 2010 coming into force on 1 April 2010.

Updated tax section

Updated statutory references in paragraphs 17.3 and 17.4 and new paragraph 17.9 relating to tax avoidance.

Abolition of requirement for an authorised share capital

has been amended to reflect the repeal of section 2(5)(a) of the Companies Act 1985 with effect from 1 October 2009.

Repeal of duty to maintain a register of directors' interests under section 325 of the Companies Act 1985

has been amended to reflect the repeal of section 325 of the Companies Act 1985 which was effective from 6 April 2007.

Related content**Topics**

AIM (<http://uk.practicallaw.com/topic1-103-1364>)

Glossary

Due diligence (<http://uk.practicallaw.com/topic5-107-6162>)