



# HYDE HOUSE

## BUSINESS BROKERS

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## ***Due Diligence Checklist***

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## ***Due Diligence Checklist***



### 1 The Company

- 1.1 A copy of the memorandum and articles of association of the Company together with copies of all resolutions amending the same
- 1.2 A copy of the Company's certificate of incorporation and any certificate of incorporation on change of name.
- 1.3 Copies of the Company's accounts for the last 3 years and any draft accounts prepared subsequently together with any statement of adjustments.
- 1.4 Copies of all management accounts for the last 12 months.
- 1.5 The address of the Company's registered office
- 1.6 The address at which the statutory books are kept and a copy of all completed pages of the same.
- 1.7 Names and addresses of all directors of the Company
- 1.8 Name and addresses of the directors and secretary of the Company

### 2 Properties

- 2.1 A schedule of all properties owned by the Company and/or used in the Company together with a full description of each property, and in particular stating which are leasehold and which are freehold
- 2.2 A schedule of all properties let to or otherwise occupied by the Company in connection with the Company
- 2.3 If available, plans showing the extent of the properties included in the above schedules
- 2.4 Copies of all title deeds of the properties owned by the Company and copies of all tenancy documents or other agreements with the Company together with confirmation of who is presently holding those deeds and documents
- 2.5 Details of any transfer or assignment of any property where there exists a residual liability of the Company (e.g. leases formerly held by the Company)
- 2.6 Names and addresses of all persons in occupation of any of the properties owned by the Company and details of their occupations



- 2.7 Copies of all planning permissions, byelaws, building regulation consents and other statutory permissions, approvals, consents, licences, permits or refusals relating to the properties owned by the Company and copies of any outstanding applications for the same
- 2.8 Details of the existing uses of each of the properties owned or occupied by the Company
- 2.9 Copies of any agreement, covenant, building contract, certificate, guarantee, warranty, bond, indemnity or insurance policy relating to the design or construction of any of the properties owned by the Company or any subsequent works to such properties
- 2.10 Details of all major works of repair carried out to any of the properties owned by the Company within the last 3 years together with details of any major works which are anticipated or required to be carried out of which the Vendor is aware
- 2.11 Details of any unusual or onerous rights, informal arrangements, covenants, conditions, restrictions, reservations, easements or other matters or of any past, present or anticipated disputes affecting the use of or otherwise any of the properties owned or occupied by the Company
- 2.12 Details of all notices relating to any of the properties which have been served upon or received by the Company or the Vendor or served by the Company or the Vendor
- 2.13 Copies of any environmental survey, environmental audit report or the like together with confirmation that any recommendations made therein have been complied with
- 2.14 Confirmation that the properties have all requisite rights and easements to enjoy the full and uninterrupted use of services and access to such properties
- 2.15 Details of the non-domestic rateable value of the properties

### **3 Leasehold properties owned by Company**

- 3.1 Copies of all leases indicating which are head leases and which are under leases
- 3.2 Details or copies of all formal or informal licences, consents, waivers, variations and other memoranda of letting
- 3.3 Confirmation that the Vendor is not aware of any breach or anticipated breach of covenant contained in any lease of any of the properties or in any document entered pursuant to such lease whether by the lessor or by the lessee



- 3.4 Details of rents paid by the Company together with details of any notices served requiring rent reviews or any correspondence or discussions relating to the same
- 3.5 In relation to the Landlord and Tenant Act 1954 copies of all notices served by a lessor or by the Company/Vendor including any applications to or orders of the court and any other relevant documentation relating to the same
- 3.6 Details of the service charges for the last three years paid by the Company. Is the Vendor aware of any future unusual or excessive expenditure in respect of any of the properties?
- 3.7 Details of any tenants' fixtures and fittings which are included in the sale
- 3.8 Copies of the current insurance policies for the properties whether taken out by the lessor or by the Company

#### **4 Properties owned by Company subject to tenancies**

- 4.1 Copies of all tenancy documents and other memoranda or documentation evidencing terms of letting by the Company
- 4.2 Names and addresses of all tenants of the Company identifying the particular tenancies under which they hold the parts of the properties comprised therein and the nature of the businesses carried on by the tenants
- 4.3 Confirmation that all covenants and conditions contained in any tenancy document or other document entered pursuant to such tenancy have been complied with by the lessor and by the lessee
- 4.4 Details of the rents, licence fees or other payments to the Company. Have either the Company or any tenant served any rent review notice or has there been any other correspondence relating to the same?
- 4.5 Details of any agreements, licences or consents proposed to be granted by the Company and details of any pending or anticipated negotiations for the surrender, renewal or variation of any of the tenancies
- 4.6 Details of all service charges for the properties for the last three years and confirmation that generally the arrangements for the provision of services and the recovery of expenses operate satisfactorily
- 4.7 Details of any insurance of the properties taken out by the Company or by any tenants
- 4.8 In relation to any business tenancy under the Landlord and Tenant Act 1954 copies of all notices, applications, orders and other documentation served by the Company or any tenant



### **5** Contracts

- 5.1 Copies of any hire purchase, credit sale, hire rental, leasing and similar agreements including details of the assets involved, the amount outstanding and the name of the hire purchase company or other relevant party and details of any noncompliance with the terms of such agreements
- 5.2 Details or copies of all long-term contracts, outstanding capital commitments, material supply agreements and contracts incorporating unusual terms with customers or suppliers or otherwise
- 5.3 Copies and/or details of any joint venture, joint development partnership or similar agreements involving the Company
- 5.4 Details of any material capital expenditure outside the normal course of business during the last two years
- 5.5 List of major customers (ie those accounting for more than 5% of the Company turnover) and value of sales in last 3 years
- 5.6 List of major suppliers (ie those accounting for more than 5% of goods supplied) and value of purchases in last 3 years
- 5.7 Details of dealings with overseas countries
- 5.8 List of all overseas markets directly or indirectly supplied with value of sales to each country in last 3 years
- 5.9 Details of all motor vehicles used by the Company which are owned, leased or hire purchased by the Vendor
- 5.10 Details of any contract or arrangement which in any way restricts the Company's ability to carry on the whole or any part of the Company in any part of the world in such manner as the Vendor thinks fit
- 5.11 Copies of all sale agreements, standard terms and conditions of trade, sale discount arrangements, licences and all agency, distribution or consultancy agreements
- 5.12 Details of trade or other associations of which the Company is a member and of any rules or codes of conduct of such association (whether a member or not) with which the Company is expected to comply or does in fact comply in operating the Company
- 5.13 Copies of all contracts relating to the acquisition or disposal of fixed assets of the Company (of material value) entered into during the last 3 years
- 5.14 Particulars of any change in the Company or in the manner of carrying it on during the last 3 financial years of the Vendor (eg changes in pricing of any products or services etc)



- 5.15 Copies of all guarantees or indemnities or similar obligations affecting the Company
- 5.16 Any contracts not mentioned above which were not in the ordinary course of the Company and which are or may be material. This includes any contracts in which any director or shareholder of the Company or any member of the Company's Group is interested directly or indirectly
- 5.17 Copies of all catalogues brochures and advertising material relating to the Company
- 5.18 Any options or agreements for options to acquire assets of any nature which are connected with the Company

## **6 Directors and employees**

- 6.1 Details (including ages, length of service, salaries, pension arrangements, benefits in kind, periods of notice, commission arrangements etc) and copies of all service agreements or arrangements with directors and senior executives employed in the Company
- 6.2 A list of all persons employed in the Company showing:
  - 6.2.1 name of employee
  - 6.2.2 date on which employment began
  - 6.2.3 job title
  - 6.2.4 salary
  - 6.2.5 benefits in kind
  - 6.2.6 notice period and
  - 6.2.7 age

In the case of a labour force over 15 in number, please show numbers and types of staff at each location

- 6.3 Details regarding trade union membership and of current and historic labour relations and copies of any recognition or collective bargaining and other similar agreements or arrangements to which the Company is a party and which relate to any employee of the Company
- 6.4 Details of any pension or life assurance scheme operated by the Company in relation to employees of the Company including any actuarial deficiencies, unfunded back service pension liabilities and any directors or employees not covered and also details of any letters establishing individual pensions
- 6.5 Details of any insurance policies on lives of directors/executives employed in the Company or policies giving such persons liability cover



- 6.6 Details of any employees of the Company in respect of whom the directors consider the Company to be under a moral obligation to provide retirement or death/accident benefits
- 6.7 Copies and full details of any share option, share incentive or profit-sharing arrangements affecting employees of the Company
- 6.8 Details of all voluntary pensions and of any arrangements (whether legally binding or not) for the making of any pension or ex-gratia payments to employees or former employees of the Company
- 6.9 Details of any special redundancy arrangements established and affecting employees of the Company
- 6.10 Details of any contracts of employment of employees of the Company which will be terminated prior to then proposed sale of the Company by the Vendor and any liability of the Vendor or potential liability of the Purchaser in this respect

## 7 Insurance

- Particulars of all existing insurances affecting the Company and of all claims experienced and of any outstanding anticipated or prospective claims and the name and address of the Company's insurance brokers.

Please supply the policies on loan and last premium receipts or copies of the same

## 8 Intellectual property

Particulars of patents (including patent applications), trade marks and service marks (registered or unregistered and including trade mark and service mark applications) and registered and unregistered designs and copyrights and other intellectual property rights beneficially owned (wholly or partly) by or registered in the name of the Company or the Vendor or any third party which are used in the Company Please supply a schedule showing:

- 8.1 name of patentee(s), number of patent, description of subject matter and nature of interest
- 8.2 name of trade mark or service mark, number registered, proprietor classes in which registered and whether subject to any registered user agreement
- 8.3 particulars of any industrial property licensed to or by the Company in connection with the Company



### **9** Litigation and disputes

- 9.1 Details of any litigation, arbitration or other dispute (including industrial tribunal actions) in which the Company is or may become involved and which affects the Company together with details or copies of all pleadings made, opinions from Counsel or others, settlement levels and estimated legal costs.

Details given should include:

- 9.1.1 The other party to the dispute/litigation
- 9.1.2 Brief details of the dispute
- 9.1.3 The approximate amount of money involved
- 9.1.4 When any action is likely to be heard or resolved
- 9.1.5 An estimate of the costs or benefit to the Company

### **10** VAT

- 10.1 Please supply address of the local office and registration number
- 10.2 Has the Company acquired or brought into use in the Company any capital items to which the Value Added Tax Capital Goods Scheme (as contained in the current Value Added Tax Regulations (as amended)) applies?
- 10.3 Details of any VAT group of which the Vendor is a member
- 10.4 Please confirm that the Vendor has not exercised and will not exercise any exemption available to it at law to waive exemption for VAT purposes in respect of any supply of the properties and further that no relevant associate of the Vendor within the meaning of the Value Added Tax Act 1994 Schedule 10 paragraph 3(7) has exercised or will exercise any such election

### **11** Miscellaneous

- 11.1 Details of any business or trade names under which the Company is carried on
- 11.2 Copies of any permits or licences (eg consumer credit licences) relevant to the Company
- 11.3 Details of any consents required in connection with the assignment of any contracts or agreements affecting the Company
- 11.4 Details of any contracts or agreements which can be terminated or which entitle the other party or parties to vary the terms thereof in the event of the disposal of the Company