

QUEEN · CITY · LAW

BARRISTERS & SOLICITORS

LEGAL DUE DILIGENCE CHECKLIST

1. STATUTORY RECORDS

- 1.1 Are all the statutory records and registers of the Company correct and up to date?

2. CONTRACTUAL COMMITMENTS

- 2.1 Provide copies, or details where not in writing, of all current agreements or arrangements entered into, or proposed to be entered into, by the Company which are material, including in particular any:

- (a) key customer or supplier contracts. Include any standard terms of supply or standard purchase terms for material suppliers of goods or services to the Company;
- (b) Agreements for the acquisition or disposal of any shares or other assets under which the Company may be subject to a continuing material obligation (e.g. warranties, restraints of trade, exclusive purchase or sale obligations);
- (c) marketing, distribution, franchise, agency, licensing or reselling arrangements which are material to the Company;
- (d) agreement which grants any options or pre-emptive rights to any third party; and
- (e) joint venture or partnership agreements or arrangements entered into by the Company with any third party;
- (f) other agreements, which could be material to the Company's ongoing businesses.

- 2.2 Is the Company a party to any agreement with any competitors or other persons which restricts it from carrying on its business as they think fit? If so, provide details.

2.3 Is the Company aware of any material contract, arrangement, understanding or relationship which might be adversely affected by the proposed sale (for example, by the operation of a “change in control” or “no assignment” clause)? If so, provide details.

2.4 Is the Company aware that any major supplier or customer, or group of suppliers or customers, intends to terminate its current business relationship with the Company, as a result of events not related to the proposed acquisition by ? In addition, are any such suppliers or customers reasonably likely to terminate their relationships with the company if the proposed acquisition by ? proceeds? If so, provide details.

3. LITIGATION AND CLAIMS

3.1 Summarise any significant historic proceedings affecting the Company.

3.2 Have any proceedings been issued or threatened by or against the Company other than for minor debt collection proceedings? If so, please provide full details.

3.3 Are there or have there been in the last five years any investigations, proceedings of claims involving the Company under the Fair Trading Act, the Commerce Act or any other competition or trade practices legislation?

3.4 Is the Company in breach, or likely to be in breach, of any contractual commitments, or is the Company aware of any other circumstances of any kind which may be likely to give rise to any other material claims of any nature against the Company? If so, provide details.

3.5 Is the Company subject to any investigation by any regulatory body? If so, provide details.

3.6 Does the Company (own or) use any land the subject of a Waitangi Tribunal or other Maori land claim?

3.7 Please advise the steps taken by the Company to comply with Privacy Act 1993, and, in particular, whether there is any privacy policy in place. Please advise if any complaints under the Privacy Act are currently being instigated or have been threatened in writing.

4. REGULATORY AND ENVIRONMENTAL ISSUES

4.1 Is each/the building (owned or) occupied by the Company in compliance with the requirements of the Building Act 1991?

- 4.2 Does the Company hold all licences, permits and authorizations (including resource consents or permits) necessary to carry on its businesses? If not, what steps are being taken to obtain these? Is there any reason why any such licence, permit or authorisation might not be issued to the Company?
- 4.3 Is the Company aware that its activities breach, or might breach, any requirement or condition of such licences, permits, authorizations, or any existing or proposed district or regional plans? In particular, has the Company received any notices or requisitions from any regulatory bodies? If so, provide details.
- 4.4 Is the Company aware that its activities breach, or might breach the Resource Management Act 1991 or other environmental, health or safety legislation (except as referred to in question 4.3 above). If so, provide details.
- 4.5 Have any environmental audits or reports been undertaken in respect of the operations of the Company? If so, provide copies.

5. PREMISES AND ASSETS

- 5.1 Provide details of any premises, owned, leased or held under licence or under some other occupation arrangement by the Company and any proposed agreements or arrangements of this nature. Please show lessor, lessee, guarantor (if applicable), current rental, term, renewal date and rent review dates.
- 5.2 In respect of premises leased by or licensed to the Company, please advise whether:
- (a) the landlord or licensor has issued any material notices in respect of the premises;
 - (b) the Company is in breach of any of its obligations under the lease or licence.
- 5.3 Please provide a schedule of the plant, equipment, vehicles and any other fixed assets (other than land and buildings) owned or used by the Company, including the book values of such items.
- 5.4 Are there any known defects in title or other significant problems relating to any assets of any kind owned or used by the Company?
- 5.5 Are any assets used by the Company which are not owned by that Company? For example, are there any vehicle or equipment leases, or hire purchase agreements, in place? If so, please provide copies.

6. INFORMATION TECHNOLOGY AND INTELLECTUAL PROPERTY RIGHTS

6.1 Is all essential computer hardware or software or other intellectual property owned by the Company, or held by them under a valid licence? If licences are in place, provide details and copies of such licenses.

6.2 Does the Company have any names, patents, trade marks, designs, copyright, confidential information, trade secrets or other intellectual property rights ("intellectual property rights") which are of particular importance to carrying on the Company's businesses? Are the Company's operating procedures protected solely as trade secrets or confidential information?

6.3 Does any other party have ownership of, or any other interest in, the names or other intellectual property rights?

6.4 Is the Company aware that its operations or processes breach or infringe any intellectual property rights held by other persons? If so, provide details.

6.5 Is the Company aware of any third parties who have infringed its intellectual property rights? If so, provide details.

6.6 What brand names are used by the Company? Are the rights to use those names owned or held under licence or otherwise?

6.7 Has the Company consented to, or is the Company aware of, the use by any other person of a company or business name similar to that Company's name? Please provide details.

6.8 Please provide details of all confidentiality undertakings or agreements to which the Company is a party.

7. GENERAL

7.1 Is there any information in relation to the Company or its business which is so sensitive that you cannot (because it has entered into a confidentiality agreement or undertaking with a third party which prohibits disclosure of information, or because of its sensitivity or importance), or that you are not willing, to disclose in the context of these enquiries? If so, please briefly outline the information, so that we are aware at least in broad terms of the general nature of all material information which is not being provided to us.