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**PROPOSED INVESTMENT IN   
[COMPANY NAME] LIMITED**

|  |  |  |
| --- | --- | --- |
|  | **LEGAL DUE DILIGENCE QUESTIONNAIRE**  **[DATE]** |  |



**Proposed investment in** **[COMPANY NAME] Limited**

**(the ‘Investment’)**

**Introduction**

This due diligence questionnaire is being provided in connection with the Investment. All responses to this questionnaire and accompanying documentation should be provided via an online data room.

***Any request for information relating to the Company also applies in respect of any and all subsidiaries and associated companies.***

When supplying replies and copy documents in response to this information request, please comply with the following guidelines:

1. provide the appropriate documents or information, or an appropriate negative statement, as soon as is practicable;
2. where a document has been supplied in response to a specific due diligence question, please mark that document with the relevant enquiry number and refer to the document in the relevant reply, for example in response to question 1.1 you should respond ‘please see document 1.1 attached’;
3. if you feel a question is not relevant, please respond with ‘N/A’ rather than leaving the response blank;
4. provide a written response where documents do not clearly explain the position;
5. 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;
6. where appropriate, differentiate between information that is of significance to the operation of the business of the Company and information that is of low importance;
7. where the same information or document is supplied in response to two or more different questions, you need not repeat your response if all appropriate cross-references are made;
8. update your responses as more information becomes available or if subsequent events make any existing response inaccurate; and
9. provide the documents requested in a data room adopting a folder structure and using the same headings and numbering adopted in this information request.

This is an initial request for information and we may ask for further information in due course.

# Definitions

|  |  |
| --- | --- |
| ‘Company’ | means [COMPANY NAME] Limited (company number [NUMBER]) whose registered office address is at [ADDRESS]; and |
| ‘Intellectual Property’ | means all patents, trademarks, copyright, moral rights, rights to prevent passing off, rights in designs, computer programs, software, source code (including open source), knowhow and all other intellectual or industrial property rights, in each case whether registered or unregistered and including applications or rights to apply for them and together with all extensions and renewals of them, and in each and every case all rights or forms of protection having equivalent or similar effect anywhere in the world. |

# Corporate data and structure

Please provide the following information in relation to the Company:

## Copies of:

### the Company’s memorandum and articles of association or bylaws (as applicable) and any amendments to those documents;

### any shareholder agreements, share subscription agreements, convertible loan notes and other relevant agreements regulating the relationship between the shareholders of the Company;

### the Company’s registers, including the registers of allotments, transfers, members, directors, directors’ residential addresses and secretaries, and minutes of all meetings of shareholders and directors; and

### the PSC register of the Company and the PSC registers of each registrable relevant legal entity that appears on the Company’s PSC register.

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

### legal and beneficial ownership;

### whether the shares are fully paid up; and

### the voting rights attached to the shares.

## Details of any rights of pre-emption affecting the shares in the Company and any other approvals or consents required for the transfer of such shares.

## Details of any redemption or buy-back of shares or any other reduction of capital, any conversion, subdivision, redenomination, share exchange or any other variation in the share capital of the Company or any other corporate restructure relating to the Company carried out in the last five financial years.

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

## Regarding any options over the share capital of the Company, details for each optionholder including, but not limited to:

### date of grant of option;

### date of agreement (and copies of the same);

### vesting schedule;

### expiry;

### approved/ unapproved status;

### exercise price per share; and

### exercise date/event.

## Details of any subsidiaries of the Company, any holding company of the Company, any other subsidiaries of any holding company of the Company, and any partnerships, joint ventures or other similar arrangements relating to the Company.

## Copies of any shareholder or other resolutions passed in respect of the Company, including (without limitation) in relation to:

### any resolution granting authority to allot shares; and

### any resolution approving the subdivision or consolidation of the share capital of the Company.

## Copies of all subsisting powers of attorney of the Company, and a list of the Company’s authorised signatories and the terms of their authority.

## Details of (if any) SEIS, EIS or VCT money that the Company has taken to date (for the avoidance of doubt, please explicitly confirm that the Company has not received such monies if this is the case).

# Intellectual Property rights

## Please provide details of all Intellectual Property owned, used, exploited or held for use by the Company (both registered and unregistered) which is or may be material to the Company or its business (‘IPR’), and where relevant please provide documentation in relation to such Intellectual Property.

## Please confirm that all IPR are valid and subsisting and that all registrable IPR have been registered.

## Please identify any IPR used by the Company which is material to its business in which the IPR rights are:

### owned jointly or in common between the Company and any other person; or

### owned by third parties.

## Please provide details of, and copies of documents relating to, all agreements, arrangements and licences of IPR which have been granted:

### to the Company by third parties; or

### by the Company to third parties.

## Please confirm 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).

## Please provide details of any other parties who have the right to use or share the Company technology in any business capacity, and any limitations placed on the scope of the Company business as a result of this usage.

## Please identify any employees, officers, consultants or others who have developed or created inventions, discoveries, improvements, processes, formulae or other material IPR.

## Please confirm whether there are any proposals for any of the persons identified in response to question 2.7 above to assign any IPR to the Company.

## Please provide details of any academic institution that have a right to use the IPR in any capacity.

## Please provide details of any disputes, complaints, objections, challenges or claims for infringement, subsistence, validity or ownership of any IPR and any legal proceedings threatened or brought in relation to any IPR or third-party Intellectual Property.

## Please provide 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 any such infringement.

## Please confirm that there are no current, pending or threatened actions being brought by the Company against third parties or by any third party against the Company for infringement of any IPR.

## Please provide details of any internal procedures for the protection of IPR and in particular for the disclosure of any confidential information either by or to the Company.

## Please provide details of the last intellectual property audit by the Company (if any), and copies of all related documents.

## Please provide details of all domain names of which the Company is the applicant or registrant, including copies of documents confirming application or registration and documents confirming payment of application, registration and renewal fees.

# Computer System and data

## Please provide details of the computer hardware, databases, software and networks owned or used by the Company (the **‘Computer System’**).

## Please provide copies of all agreements relating to the supply, financing, maintenance and support of the Computer System.

## Please provide details of any element of the Computer System that is:

### owned by third parties and licensed or leased to the Company; or

### shared between the Company and any other person,

including copies of any relevant agreements.

## Please provide details of, and copies of all documents relating to, any licence granted by the Company to a third party in respect of the Company’s proprietary software.

## Please provide 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, and copies of any related documents.

## Please provide details of whether the Company has access, or rights of access, to the source code of any licensed software that is key to the Company’s business in order to ensure adequate maintenance and updating of that software, and copies of any related documents.

## Please provide details of (a) any element of the Computer System comprising open-source software, and (b) any other open-source software used by the Company, in both cases including details of authorship.

## In relation to any open-source software comprised in the Computer System or otherwise used by the Company:

### please provide the name(s) of the open-source software and copies of all licences under which the software is used by the Company; and

### please provide details of any disputes between the Company and any third party or any circumstances of which the Company is aware as being likely to give rise to a dispute between the Company and any third party which may affect the continuance of the Company’s use of that software.

## Please provide 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 continuance of the Company’s use of that element.

## Please provide 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 of the Company, and copies of all relevant documents (including any terms of employment or consultancy contract with the author).

## Please provide 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 currently holds.

## Please provide 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.

## Please provide details of any material technical problems with the Computer System.

# Data protection

## Please provide details of the procedures employed by the Company to monitor compliance with data protection legislation and any breaches (actual or alleged) of such legislation.

## Please confirm whether or not all data used in the Company’s business is held on the Computer System.

## Please provide details of all categories of personal data processed by the Company, the source of each category of personal data, the purpose for which each category of personal data is processed by or on behalf of the Company and the associated legal basis for the processing of each category of personal data.

## Please provide details of the procedures and policies employed by the Company to ensure compliance with data protection legislation, including keeping personal data up to date, removal or correction of data, data retention periods, security and breach response procedures and information given to data subjects about the uses of their data.

## Please provide details of any third party which processes personal data on behalf of the Company including the details of all due diligence, audits and inspections undertaken by the Company in respect of such third parties.

## Please provide copies of all contracts under which a third party processes personal data on behalf of the Company.

## Please provide details of any personal data which is processed outside the European Economic Area by the Company, or by a third party on behalf of the Company, including details and copies of any adequacy decisions, appropriate safeguards or derogations applied.

## Please provide a copy of the Company’s privacy policy and any other privacy notices used by the Company.

# Employees

Please provide:

## An up-to-date list of all persons currently employed by the Company showing their date of commencement of employment, job title, current annual salary (including details of any proposed review or increase), commission, incentive and bonus arrangements, benefits, notice period and details of any disciplinary action taken during the last three years.

## Copies of all service agreements, contracts for services (including standard terms), other relevant agreements and consultancy agreements with directors and senior employees and any standard terms of employment for non-senior employees.

## Details of any share option scheme operated by the Company.

## Details of any co-founders who have left the business, the circumstances under which they left, and any correspondence and documentation that has been shared between the Company and co-founder since their departure.

## Details of any involvement the Company has had in the UK Government’s Coronavirus Job Retention Scheme (as established pursuant to the Coronavirus Act 2020 Functions of Her Majesty’s Revenue and Customs (Coronavirus Job Retention Scheme) Direction, given by the Treasury under sections 71 and 76 of the Coronavirus Act 2020(c) on 15th April 2020).

# Contracts and trading

Please provide:

## Details of, and copies of all documents relating to, any agreement, contract, transaction, understanding, liability or arrangement of the Company (whether written or oral) which:

### is material to the Company or its business; or

### is of a longstanding, unusual, abnormal or onerous nature or is likely to result in a loss to the Company; or

### has been entered into otherwise than in the ordinary and usual course of business; or

### is likely to result in a loss to the Company on completion of performance; or

### cannot readily be fulfilled or performed by the Company on time without undue or unusual expenditure of money or effort; or

### involves the supply of services, the aggregate sale value of which will represent in excess of 10% if the anticipated turnover of the Company in the next twenty four months.

## Copies of any hire purchase, rental, leasing or similar agreements. Copies of all licences, franchising, merchandising, marketing, purchasing, manufacturing, factoring, agency and distribution agreements entered into by the Company. Copies of any subsisting contracts or arrangements which are liable to termination or alteration on a sale of the shares of the Company, or where the consent of third parties is otherwise required to such a sale.

## Details of, and copies of all documents relating to, any joint venture, partnership, consortium, profit sharing or similar agreements or arrangements to which the Company is a party.

## Details of any negotiations of material importance to the Company or its business that are currently in progress.

## Details of, and copies of all documents relating to, any confidentiality undertakings given by, or otherwise affecting, the Company.

## Copies of all standard terms and conditions used by the Company.

## A list of all material customers and material suppliers of goods, services or data to the Company and details of all agreements with those customers and suppliers, including details of the value of sales or purchases (as the case may be) in the last 12 months, and copies of all related documents.

## Details of all credit arrangements in favour of any customer or client of the Company who has been granted a payment term outside of usual business terms or any discount, special terms or other financial incentives.

# Assets

Please provide:

## A list and details of all assets owned by the Company and details of any purchase price outstanding in respect of such assets.

## Details of, and copies of all documents relating to, any mortgages, charges, options, retention of title or other restrictions, adverse rights or security of any description affecting any assets owned or used by the Company, or any agreements or other commitments to create the same.

# Loans and borrowings

Please provide details of, and copies of all documents relating to, all overdrafts, loans, credit facilities, invoice discounting, factoring and other borrowings of the Company and any encumbrances, guarantees, indemnities or other security affecting the Company.

# Disputes

Please provide details of, and copies of all documents relating to, any court, tribunal, arbitration or dispute resolution proceedings in progress or any dispute or default that has occurred or is alleged which may lead to such proceedings involving the Company.

# Funding and grants

Please provide details of any state aid, grants, subsidies or financial assistance given to the Company (whether by a government body or otherwise) received by the Company indicating those which may in any circumstances become repayable.

# Licences and regulatory consents

## Please provide details of any governmental, statutory or other regulatory licences or consents that the Company is required to have for the operation of its business, including details of all FCA licences granted to, or applied for, by the Company.

## Please provide details of, and copies of all documents relating to, any investigation, enquiry, prosecution or other enforcement proceedings or process by any governmental, administrative, regulatory or other body or organisation in relation to, or affecting, the Company, and details of any facts or circumstances that may give rise to any such matters.

## Please provide details of any registration with the Information Commissioner’s Office, together with details of the procedures employed by the Company to monitor compliance with data protection legislation.

# Property

Please provide details of any real estate in which the Company has an interest, whether freehold, leasehold or otherwise.

# The Bribery Act

Pursuant to the Bribery Act 2010 (or the relevant legislation applicable in other jurisdictions), does the Company have an anti-bribery policy in place,? If so please send us any documentation of the policy, and any employee handbook in current use.

# The National Security and Investment Act

## Please confirm if the Company has received any legal advice in relation to The National Security and Investment Act 2021 and, if so please provide details.

## Does the business of the Company, or any part of it, fall within the scope of any of the 17 key sectors requiring mandatory notification pursuant to the National Security and Investment Act 2021, taking account of the detailed definitions of such sections published in the most up to date Government guidance (<https://www.legislation.gov.uk/ukdsi/2021/9780348226935>)?

## In the reasonable view of the founders, are there any situations in which the actual, or intended, nature and activities of the business could cause any potential national security concerns?