

DIRECT WOMEN N.V.

PROPOSED FLOTATION

**MEMORANDUM ON THE RESPONSIBILITIES AND
OBLIGATIONS OF DIRECTORS OF AN AIM COMPANY**

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Introduction

Directors of a public company whose securities are admitted to trading on AIM the market operated by the London Stock Exchange plc (the "**London Stock Exchange**") are subject to greater restraints and wider responsibilities and duties than directors of a private company. In particular, they must comply with the rules and regulations set out in the rules for companies published by the London Stock Exchange governing admission to AIM and the regulation of companies whose securities are admitted to trading on AIM (the "**AIM Rules**"). One of the objectives of the AIM Rules is to promote investor confidence in standards of disclosure, in the conduct of listed companies' affairs and in the market as a whole. Companies are therefore required to keep the market properly informed of developments which could affect their share price. Such developments include the acquisitions and disposals of assets, changes in capital structure including issues of securities, and certain dealings in their securities, particularly by directors.

The purpose of this memorandum is to provide an overview of the continuing obligations and responsibilities of directors once the securities of Direct Wonen N.V. (the "**Company**") have been admitted to AIM. It is intended as a summary only and the advice of legal or other professional advisers should be sought in respect of specific matters as necessary.

The continuing obligations of directors fall under the following broad categories:

AIM Rules/Disclosure Rules

A company obtaining the privileges and benefits of a trading on AIM must comply with the AIM Rules. The disclosure rules published by the Financial Services Authority (the "**FSA**") (the "**Disclosure Rules**") which form part of the Disclosure Rules and Transparency Rules sourcebook of the FSA (the "Disclosure and Transparency Rules" or "DTR"), contain rules and guidance on the control of inside information in DTR 1 and 2. Although these rules do not apply to AIM companies as AIM is not a regulated market, they provide valuable guidance and some of the provisions should be adopted as a matter of good practice.

In connection with the application for admitting the Company's securities, Collins Stewart Europe Limited ("**Collins Stewart**") as nominated adviser and broker must be satisfied that the directors and proposed directors of the Company have received advice and guidance (by the nominated adviser or other appropriate professional adviser) as to the nature of their responsibilities and obligations under the AIM Rules.

The Berwin Leighton Paisner LLP *Memorandum on directors' responsibilities for an AIM admission document* summarises the responsibilities and obligations of directors in respect of an application for securities to be admitted to trading on AIM.

In addition, an AIM company must ensure that :

- (a) it has in place sufficient procedures, resources and controls to enable it to comply with the AIM Rules;
- (b) it seeks advice from Collins Stewart regarding compliance with the AIM Rules;
- (c) it provides Collins Stewart with any information it reasonably requires or requests in order for Collins Stewart to carry out its responsibilities; and
- (d) its directors accept responsibility, collectively and individually, for the Company's compliance with the AIM Rules.

Failure to comply with any of the continuing obligations of the AIM Rules may result in the London Stock Exchange issue a warning notice fining the Company, censuring the Company, or individual directors or cancelling the admission to trading of the Company's securities and publishing the fact that the Company has been fined or censured and the reason for that action. In certain circumstances, non-compliance with the AIM Rules regarding disclosure of inside information can amount to market abuse which is punishable by a fine or censure by the FSA.

The most important of the AIM Rules and the Disclosure Rules are discussed in section A.

Share dealings

Dealings in the securities of AIM companies are subject to insider dealing and market abuse legislation. In addition to the general law, directors and certain employees should also comply with a specific code of conduct for directors' and

connected parties' dealings in the securities of the Company adopted by the Company to ensure compliance with the AIM Rules. Share dealings are discussed in greater detail in section B.

Company law and financial services

All directors have specific duties imposed on them by law and Houthoff Buruma N.V. will advise the directors of their responsibilities under Dutch law.

City Code on Takeovers and Mergers

Although the conduct of any takeover of the Company (and an acquisition by the Company involving the takeover of a United Kingdom public company or, in certain cases, a private company) will not be governed by the City Code on Takeovers and Mergers (the "**City Code**"), the Company has adopted Articles of Association that reflect the provisions of the City Code which relate to mandatory takeover bids and as such it is important that the directors are familiar with the basic concepts of the City Code and these are referred to in the attached note - "*Takeover Code - General Principles*".

Attachments:

- The AIM Rules;
- The Disclosure and Transparency Rules;
- UKLA newsletter List! (Issue 9);
- The 2003 Combined Code; and
- Takeover Code – General Principles.

SECTION A: AIM RULES

The AIM Rules set out the general obligation of disclosure which a company whose securities are admitted to trading on AIM is required to observe.

Each director and proposed director, whether executive or non-executive, should familiarise himself/herself with these obligations and responsibilities.

The London Stock Exchange may from time to time alter its requirements and the Company and the directors will be expected to comply with the revised requirements.

1 NOTIFICATION OF INFORMATION

1.1 Duty of general disclosure

1.1.1 One of the principal objects of the continuing obligations is to maintain an orderly securities market and to ensure that all users of the market have simultaneous access to the same information by the immediate release of information which might reasonably be expected to have a material effect on market activity in, and prices of, the Company's AIM securities.

1.1.2 Rules 10 and 11 of the AIM Rules impose a general duty to notify (without delay) the Company's Regulatory Information Service ("**RIS**") of any new development or relevant information which is not public knowledge concerning a change in the Company's financial condition, its sphere of activity, the performance of its business or its expectation of its performance, which if made public would be likely to lead to a substantial movement in the price of its AIM securities. The Company must take reasonable care to ensure that any information it notifies is not misleading, false or deceptive and does not omit anything likely to affect the import of such information.

1.2 Dealing with inside information

1.2.1 The AIM Rules deal with the disclosure of price-sensitive information and are relatively brief and contain little guidance on their application in practice. Previously, AIM companies referred to the Guidance on the Dissemination of Price-Sensitive Information which was published by the FSA for listed companies. This provided guidance to companies in relation to particular situations which a

company might encounter in practice. However, this guidance was withdrawn on 1 July 2005 when the Disclosure Rules came into force. These Disclosure Rules implement the disclosure requirements of the EU Market Abuse Directive and contain in DTR 1 and 2, (i) rules and guidance on the disclosure and control of inside information and (ii) measures which are designed to help detect market abuse and to prevent it from occurring. (Although the market abuse regime refers to "inside information" whereas the AIM Rules for Companies deal with the disclosure of "price-sensitive information" for practical purposes, these are one and the same thing.) Although DTR 1 and 2 do not apply directly to AIM companies because AIM is not a regulated market for the purposes of EU Law (although, confusingly, it is a regulated market "for the purposes of the insider dealing rules in Part V of the Criminal Justice Act 1993"), the provisions of the Financial Services and Markets Act 2000 ("**FSMA**") concerning market abuse do apply to AIM companies and the failure to disclose inside information can constitute market abuse. In as much as these rules provide detailed guidance to assist companies in identifying what constitutes inside information and when an announcement is required, they provide valuable guidance to AIM companies and, as a matter of best practice, AIM companies should have regard to certain provisions of those rules, in particular those which relate to the identification of inside information; the control of inside information and the timing of disclosure. The UK Listing Authority ("**UKLA**") have also published a special edition of its newsletter List! attached setting out good practice in dealing with inside information. Its contents however are not formal guidance.

- 1.2.2 DTR 2 imposes a general duty to notify inside information. Inside information is information that is not generally available, relates directly or indirectly to the Company or the Company's securities, and, if made public, would have a significant effect on the price of the securities or other financial instruments issued by the Company or related investments whose price or value depends on the price or value of the Company's securities or other financial instruments.

In determining the likely price significance of information the Company should assess whether the information in question would be likely to be used by reasonable investor as part of the basis of his investment decisions and would therefore be likely to have a significant effect on the price of the Company's financial instruments. This assessment is known as the reasonable investor test. There is no figure (percentage change or otherwise) that can be set when determining a "**significant effect**"; this will depend on the issuer involved. The Company should have a consistent procedure for determining what information is

sufficiently significant for it to be deemed inside information and for the release of that information to the market.

There is further guidance relating to the reasonable investor test within the Disclosure Rules including a list of the factors affecting the significance of the information in question and a list of categories of information which are likely to be considered relevant to a reasonable investor's decision. Information which could be considered relevant for this purpose includes significant information relating to the Company's assets and liabilities, its financial position or its performance or expectation of the performance.

1.2.3 The directors should carefully and continuously monitor whether changes in the Company's circumstances are such that an announcement obligation has arisen under DTR 2. The board may choose to make the Company's executive responsible for monitoring performance and giving consideration to whether there has been a change in the Company's expectation as to its performance. The FSA is not likely to regard the inability to convene a full board meeting as warranting a delay in releasing inside information as most companies can delegate authority to make "**emergency**" announcements to a small number of directors who can quickly agree a course of action during a telephone meeting.

1.2.4 The Company may only delay the public disclosure of inside information where:

- (a) it has legitimate interests to protect;
- (b) the omission is not likely to mislead the public;
- (c) any person receiving the information owes the Company a duty of confidentiality; and
- (d) it is able to ensure the confidentiality of the information.

1.2.5 When the Company is faced with an unexpected and significant event, a short delay may be acceptable if necessary to clarify the situation. A holding announcement should be prepared as a matter of course in these circumstances because of the danger of a leak.

Where the Company is permitted to delay public disclosure of inside information in order to protect its legitimate interests, it may selectively disclose that information to persons owing it a duty of confidentiality if it is in the normal course of the exercise of that person's employment, profession or duties. By way of guidance, a

list of such persons is given in the Disclosure Rules which is non-exhaustive. It covers major shareholders, lenders and credit rating agencies, the Company's advisers and employees of the Company who require the information to perform their functions. However improper disclosure of inside information constitutes market abuse under section 118(3) FSMA and there therefore must be a good reason for the person to receive the information and not just because they are on the list in the Disclosure Rules.

1.2.6 The Disclosure Rules require the Company to have a framework for the control of inside information. The Company must establish effective arrangements to deny access to inside information to persons other than those who require it for the exercise of their functions within the Company. Companies may consider adoption of closed access and password requirements in their IT systems to deny unnecessary access to inside information as well ensuring that the systems for circulation and storage of hard copy documents containing inside information is effective. The Company is also required to have in place measures to enable public disclosure to be made via a RIS as soon as possible if the Company cannot ensure the confidentiality of the inside information. Where the issuer has a website, the inside information announced via a RIS should be made available on its website by the close of the business day after the announcement is made and it must remain there for at least one year. There is further informal guidance in the special edition of the UKLA newsletter List! attached. See also paragraph 1.10 below for details of other information which must appear on a website pursuant to the AIM Rules.

1.2.7 Directors should make use of their advisers to make an initial assessment of whether information is inside information. The decision as to whether a piece of information is inside information may be finely balanced and the issuer with the help of its advisers will need to exercise its judgement. Where appropriate, advice may be sought from the UKLA via its helpline.

1.3 **Press speculation and market rumours**

The Disclosure Rules give guidance on dealing with press speculation and market rumours. Where there is press speculation or market rumour concerning the Company, the Company should assess whether its general obligation to announce has arisen under the Disclosure Rules. To do this the Company needs to assess carefully whether the speculation or rumour has given rise to a situation where the Company has inside information. The guidance makes it clear that the knowledge that a rumour is false is unlikely to amount to inside information and, even if it did, the Company would usually be able to delay disclosure, often indefinitely. Where

the press speculation or market rumour is largely accurate and the information underlying the rumour is inside information then it is likely that the Company can no longer delay disclosure as it can no longer ensure the confidentiality of the inside information and it should disclose the inside information to a RIS as soon as possible. Whilst the UKLA does not usually require a company to make a negative statement denying an unfounded rumour, if the Company does decide to publish a denial, it should consider doing this by making a formal announcement to the whole market rather than just through a single newspaper or newswire service to ensure the market is fully informed. Companies should be prepared to give a “no comment” answer where journalists are pressing for inside information. A “no comment” answer policy should be used consistently so the Company should use the policy when it is delaying disclosure and also when it is not actually in possession of any inside information. Inconsistencies may allow the Company’s audience to infer an answer and could amount to selective disclosure. Again there is further informal guidance in the special edition of the UKLA newsletter List! referred to above.

1.4 **Communications with third parties**

Companies are encouraged to make the most of opportunities to communicate with investors but if, for example, the Company proposes to discuss inside information at its annual general meeting or at a press conference, arrangements should be made for the inside information to be included in an announcement via a RIS at or before the start of the meeting or press conference. To minimise the risk of disclosing inside information, the Company should consider implementing internal procedures to reduce these risks. Selected representatives of the Company could be present at these meetings to keep a record of the discussions held and to ensure questions are not answered which could result in the disclosure of inside information.

1.5 **Meetings with analysts**

The Company should have in place a clear policy about the extent to which they should answer analysts’ question and only those who have been fully briefed on the legal and regulatory implications should deal with brokers and analysts.

The Company should not answer analysts’ questions where individually or cumulatively the answers would provide inside information. If analysts’ comments or views appear inaccurate the Company can consider what public information is available to draw to their attention. The mere fact that information is unpublished

does not make it inside information. If there is unpublished information that is not inside information in itself or in combination with other information disclosed or available to the recipient, then the Company could use this information to answer analysts' questions without making an announcement.

If an analyst publishes a forecast which is not correct, the Company is not obliged to make an announcement correcting the public forecast but the Company should consider making a RIS announcement to correct significant errors that come to its attention, which in its view, have led to a widespread and serious misapprehension in the market.

1.6 **Insider lists**

DTR 2 requires the Company to compile lists of persons working for it, under a contract of employment or otherwise, with access to inside information relating directly or indirectly to the Company, whether on a regular or occasional basis. The Company is also required to ensure that persons acting on its behalf or for its account (for example, advisers) compile such lists. Insider lists must contain the identity of each person with access to inside information, the reason why any such person is on the insider list and the date on which the insider list was created and updated. "Necessary measures" must be made to ensure that employees with access to inside information acknowledge the legal and regulatory duties entailed (including dealing restrictions) and are aware of the sanctions for misuse or improper circulation. The Company should consider training and/or the circulation of explanatory memoranda to its employees to deal with this requirement together with a written acknowledgement signed by the employee. The Company must also ensure that any person that is acting on behalf of or on account of the Company and has drawn up an insider list has taken the "necessary measures" to ensure that every person whose name is on the insider list acknowledges the legal and regulatory duties and is aware of the sanctions for misuse or improper circulation. These matters can be dealt with in standard terms of engagement or engagement letters with advisers and agents.

- 1.6.1 These disclosure requirements referred to above reinforce the market abuse rules contained in section 118 FSMA and section 397 FSMA. Non-disclosure of inside information may amount to market abuse under section 118(8) FSMA. In addition it may amount to a criminal offence under section 397 FSMA. Section 397 FSMA provides, in summary, that any person who knowingly or recklessly makes a statement, promise or forecast which is misleading, false or deceptive, or who dishonestly conceals material facts about the Company, is guilty of an offence if

such action is taken with the intention of inducing (or is taken recklessly as to whether it may induce) others to acquire or refrain from acquiring the Company's securities or to exercise or refrain from exercising rights conferred by the Company's securities. A person may be taken to be acting "dishonestly" for these purposes if he/she deliberately or recklessly fails to comply with market practice or market regulation. Accordingly, deliberate or reckless failure to comply with the disclosure obligations of the AIM Rules and the Disclosure Rules might constitute evidence of dishonest concealment of material facts under section 397 FSMA and so amount to a criminal offence.

1.6.2 It is also an offence to do any act or engage in any course of conduct which creates a false or misleading impression as to the market in or the price or value of the Company's securities and is intended to induce others to acquire, dispose of or underwrite the Company's securities or to exercise or refrain from exercising rights conferred by the Company's securities:

1.6.3 the penalty in either case is a fine (which can be of any amount) or imprisonment for a maximum of seven years or both; and

1.6.4 if notification to a RIS is required at a time when it is closed (for example, over the weekend), the Company must distribute the relevant information to not less than two national newspapers in the UK and two newswire services operating in the UK and must also ensure that notification is made to a RIS for release as soon as it re-opens.

1.7 **Duties of specific disclosure**

In addition to the general obligation of disclosure under Rule 17 of the AIM Rules, the Company must notify the RIS without delay of certain specific matters such as:

1.7.1 any deals in the Company's securities (including the grant or acceptance of options) by directors or certain family members giving the information, the information specified by Schedule Five to the AIM Rules;

1.7.2 any relevant changes to any significant shareholders disclosing, insofar as it has such information, the information specified by Schedule Five of the AIM Rules;

1.7.3 corporate transactions (depending on the size) - these are dealt with in more detail in paragraph 3 (*corporate transactions*) below;

- 1.7.4 any material change between the Company's actual trading performance or financial condition and any profit forecast, estimate or projection included in the Company's AIM admission document or otherwise made public by or on behalf of the Company;
- 1.7.5 any decisions to pay or make any dividend or other distribution on AIM securities, specifying the net amount payable per share, the payment date and the record date;
- 1.7.6 the occurrence and number of securities taken into and out of treasury;
- 1.7.7 any resignation, dismissal or appointment of the Company's directors and nominated adviser or broker;
- 1.7.8 any changes in the Company's legal name, registered office and accounting reference date; and
- 1.7.9 any change in the website address at which information required by Rule 26 (see paragraph 1.8 below) is available;
- 1.7.10 any subsequent change to the details disclosed pursuant to paragraph (g) of Schedule Two, sub-paragraphs (iii) to (viii) whether such details were first disclosed at admission or on a subsequent appointment; and
- 1.7.11 the admission to trading (or cancellation from trading) of the AIM shares (or any other securities issued by the Company) on any other exchange or trading platform, where such admission or cancellation is at the application or agreement of the AIM company.
- 1.7.12 In addition to paragraph 1.7.2 above, the Company, in accordance with AIM Rules, have amended their articles of association to comply with certain disclosure requirements in the Transparency Rules. These rules require the Company to notify the RIS of any changes to the percentage of voting rights held in the Company and notified pursuant to DTR 5.1.2R (ie disposals or acquisitions by a shareholder of 3% or more). Pursuant to DTR 5.8.12R this should be done no later than the end of the third trading day following receipt of the information by the shareholder. However, contrary to the DTR, the guidance to the AIM Rules states that this information should be notified without delay.

1.8 **Website disclosure**

Pursuant to Rule 26 of the AIM Rules, the Company must maintain, from admission, a website on which certain information should be available, free of charge. The list of information includes details of the number of AIM securities in issue (noting any held as treasury securities) and insofar as it is aware, the percentage of AIM securities that are not in public hands together with the identity and holdings of its significant shareholders; its most recent admission document together with any circulars; and all notifications published within the past 12 months. The information required by this rule should be easily accessible from one part of the website and a statement should be included confirming that the information is being disclosed pursuant to this rule. The information should be kept up-to-date and the date it was last updated should be shown on the website.

2 **FINANCIAL INFORMATION**

2.1 The AIM Rules contain obligations relating to financial matters under Rules 18 and 19. An AIM company incorporated in an EEA country must prepare and present their consolidated accounts in accordance with International Accounting Standards. For AIM companies incorporated in non-EEA member states, Canadian GAAP, Japanese GAAP and Australian IAS (in addition to IAS and US GAAP) will be treated as acceptable accounting standards for the preparation of financial information.

2.2 Although the AIM Rules do not lay down a required format for an AIM company's annual report, investors will generally expect that it will meet the standards laid down for fully listed companies contained in Chapter 9 of the Listing Rules. Fully listed companies are also required to comply with DTR 4 on periodic financial reporting and AIM companies may wish to adopt these rules as a matter of good practice. DTR 4 applies to companies with financial years commencing on or after 20 January 2007 and contain continuing obligations relating to matters of a financial nature covering the nature and content of the annual financial report, the half-yearly financial report and the interim management statements.

2.2.1 Annual financial reports

The Company will need to publish, no later than four months after the end of each financial year, an annual financial report consisting of audited financial statements, a management report and responsibility statements. The management report must contain a fair review of the business of the Company together with a description of

the principal risks and uncertainties facing the Company using financial key performance indicators, where appropriate.

2.2.2 Half-yearly financial reports

A half-yearly financial report must be published by the Company, no later than two months after the end of the period to which it relates, consisting of a condensed set of financial statements, an interim management report and responsibility statements covering the first six months of the financial year.

2.2.3 Interim management statements

The Company will need to publish interim management statements during the first six months of the financial year and the last six months for the period between ten weeks after the beginning and six weeks before the end of each relevant six month period. It must contain an explanation of material events and transactions that have taken place during this period and their impact on the financial position of the Company.

2.3 Directors of AIM companies should also follow the guidelines for corporate governance for AIM companies issued by the Quoted Companies Alliance (the "QCA") and be aware of the principles and detailed provisions of the Combined Code on Corporate Governance (the "**Combined Code**"). The Combined Code was originally issued in 1998 and derived principles and detailed provisions from the Hampel Committee's final report and from the Cadbury and Greenbury reports on Corporate Governance. It has subsequently been amended in July 2003 and June 2006 and companies with reporting years beginning on or after 1 November 2006 should comply with the June 2006 Combined Code. The provisions of the Combined Code are of a higher standard and go beyond the QCA guidelines. Although the AIM Rules do not require compliance by AIM companies with the provisions of the Combined Code, it is best practice for AIM companies to seek to comply with these provisions. This memorandum considers the principles and provisions of the Combined Code issued in 2006 which include the following:

- (a) that the board should present a balanced and understandable assessment of the Company's position and prospects;
- (b) that the board should maintain a sound system of internal control to safeguard shareholders' investment and the Company's assets; and

- (c) that the board should establish formal and transparent arrangements for considering how they should apply the financial reporting and internal control principles and for maintaining an appropriate relationship with the Company's auditors. The Combined Code provides under this principle that the board should (i) establish an audit committee of at least three independent non-executive directors (for smaller companies below the FTSE 350, two) of whom at least one should have recent and relevant financial experience and (ii) provide the committee members with written terms of reference which deal clearly with their role and responsibilities. A section of the annual report should describe the work of the committee in discharging its responsibilities.

2.4 As a result of the Combined Code, the FSA introduced rules for annual reports and accounts of companies listed on the official list of the UKLA (the "**Official List**"). AIM companies should, as a matter of best practice, seek to comply with these rules.

- (a) a listed company incorporated in the UK must make a disclosure statement in two parts in its annual report and accounts. In the first part of the statement, the company is required to report on how it has applied the principles set out in section 1 of the Combined Code, in a manner that would enable shareholders to evaluate how the principles have been applied. In the second part of the statement, the company is required to confirm whether or not it has complied throughout the accounting period with all relevant provisions set out in section 1 of the Combined Code. A company that has not complied with the Combined Code provisions must specify the provisions with which it has not complied and give reasons for any non-compliance.
- (b) such company must also include in its annual reports and accounts a report by the board to the shareholders on the company's policy on executive directors' remuneration, giving prescribed details relating to directors' remuneration, share options, incentive schemes and service contracts.
- (c) the company's statement as to whether or not it has complied with the Combined Code must be reviewed by the auditors, but only insofar as it relates to certain provisions of the Combined Code relating to accountability and audit.

2.5 For further information on the Combined Code, see Clause 4 (*The Combined Code*). A copy of the Combined Code is attached.

2.6 Companies whose equity share capital is listed on the Official List are required to comply with the Directors' Remuneration Report Regulations 2002 (the "**Regulations**"), which came into force on 1 August 2002. The Regulations duplicate many of the provisions contained in the Listing Rules relating to directors' remuneration. Although the application of the Regulations is not very clear, the UK Department of Trade and Industry is of the view that the Regulations do apply to companies not incorporated in the UK. Under the Regulations, companies are required to publish a report on directors' remuneration annually (a "**Remuneration Report**") which will form part of the annual report and accounts, and must hold a members' vote to approve the report at the Company's general meeting before which the annual accounts for the financial year are laid. The report will disclose details of the individual directors' remuneration packages, the role of the board's remuneration committee and of the board's remuneration policy. Certain information in the Remuneration Report must be audited by the Company's auditors. Once again, it is best practice for AIM companies to seek to comply with these rules.

3 **CORPORATE TRANSACTIONS**

3.1 Rules 12 to 16 of the AIM Rules lay down certain guidelines relating to the Company's responsibilities to disclose certain information in relation to transactions. These rules describe how the transactions (excluding transactions of a revenue nature in the ordinary course of business and transactions to raise finance which do not involve a change in the fixed assets of the Company or its subsidiaries) should be classified. This classification largely depends on the significance of the transaction to the Company and determines whether the Company is required to make an announcement, send a circular to its shareholders or whether shareholders' approval is required. They also apply to transactions by subsidiary undertakings.

3.2 These rules and Schedule Three of the AIM Rules require a comparison to be made between the size of a transaction and the size of the AIM company proposing to make it on several bases by the use of percentage ratios relating to asset value, profits, turnover, consideration and market capitalisation (the class tests). An announcement without delay is required as soon as the terms of a transaction are agreed where any of the ratios in the class tests set out in Schedule Three of the AIM Rules exceeds 10%.

3.3 The Company may be required to aggregate transactions in the 12 months prior to the relevant transaction for the purposes of determining which classification applies to the relevant transaction. However, in general, transactions will only be aggregated if they are with the same parties, involve the acquisition or disposal of an interest in one particular company or together lead to substantial involvement in an activity which did not previously form a part of the Company's principal activities.

3.4 **Related party transactions**

The directors should be aware that the AIM Rules set out specific requirements for transactions (other than transactions of a revenue nature in the ordinary course of business) with "related parties". A related party transaction is a transaction between the Company and a substantial shareholder (a holder of 10% or more of the securities on an AIM company), a director (or recent director) of the Company or any of its subsidiary undertakings or an associate of either of them and which exceeds 5% of any of the class tests. For this purpose, "recent" means within 12 months prior to the relevant transaction. The AIM Rules provide that, where a transaction is proposed between an AIM company (or any of its subsidiary undertakings) and a related party, the Company must notify the RIS (without delay) of the details regarding the transaction and the directors (with the exception of any director who is involved in the transaction as an interested party) must make a statement that the terms of the transaction are fair and reasonable to the shareholders, as required by Rule 13 of the AIM Rules.

3.5 **Reverse takeovers**

If an acquisition or acquisitions in a 12 month period would:

- 3.5.1 exceed 100% under any of the class tests; or
- 3.5.2 result in a fundamental change in the business, board or voting control of the AIM company; or
- 3.5.3 result, in the case of an AIM company whose primary business is making investments in a substantial departure from the investing strategy stated in its AIM admission document or, where no AIM admission document was produced on admission to AIM, a substantial departure from the strategy stated in its pre-admission announcement or substantial departure from the investing strategy stated in its circular published pursuant to Rule 15 of the AIM Rules,

then it will be classified as a reverse takeover and would require:

- 3.5.4 the consent of its shareholders at a general meeting;
- 3.5.5 notification without delay disclosing the information specified in Schedule Four of the AIM Rules; and
- 3.5.6 the company to send an AIM admission document to its shareholders in respect of the proposed enlarged entity and convening the general meeting.

Where shareholders' approval is given for the reverse takeover, trading in the Company's shares will be cancelled and, if the enlarged entity seeks admission to AIM, it must make an application in the same way as any other new applicant applying for admission to trading on AIM for the first time.

3.6 **Disposals resulting in a fundamental change of business**

If a disposal which, if aggregated with other disposals over a 12 month period, would result in any of the ratios under the class tests exceeding 75%, it is deemed to be a disposal resulting in a fundamental change of business and must be:

- 3.6.1 conditional on shareholder consent;
- 3.6.2 notified without delay disclosing the information specified in Schedule Four of the AIM Rules; and
- 3.6.3 accompanied by a circular to shareholders containing the information referred to above and convening the general meeting.

Where the effect of the proposed disposal is to divest the AIM company of all or substantially all of its trading business activities, the Company will, upon disposal, be treated as an investing company and the notification and circular referred to above must also set out the Company's investing strategy going forward. The Company will then have 12 months from receiving the consent of its shareholders to make an acquisition or acquisitions which would constitute a reverse takeover or otherwise implement the investing strategy approved at the general meeting to the satisfaction of the London Stock Exchange.

4 **THE COMBINED CODE**

- 4.1 Paragraph 2 (*financial information*) above referred to the Combined Code. The Combined Code also relates to other matters. Many of the Combined Code

provisions are reflected in the documents which will be adopted by the Company at the time of the flotation, while others should be adopted as a matter of good practice. However, the extent to which the Company will seek to comply with the Combined Code is a matter of discussion with the nominated adviser and broker. In addition to the matters mentioned in Clause 2 (Financial information) on financial information, the principal areas of the Combined Code are:

4.1.1 Board procedure

The Board should meet sufficiently regularly to discharge its duties effectively. The annual report should include a statement of how the board operates, including a high level statement of which types of decisions are to be taken by the board and which are to be delegated to management. The annual report should identify the chairman, the deputy chairman (where there is one), the chief executive, the senior independent director and the chairman and members of the nomination, audit and remuneration committees. The chairman should hold meetings with the non-executive directors without the executives present. Led by the senior independent director, the non-executive directors should meet without the chairman present at least annually to appraise the chairman's performance. Where directors have concerns which cannot be resolved about the running of the Company or a proposed action, they should ensure that their concerns are recorded in the board minutes. The Company should arrange appropriate insurance cover in respect of legal action against its directors.

4.1.2 Non-executive directors

The Combined Code places great emphasis on the importance of a strong non-executive presence on the Board. Except for "smaller companies" (below the FTSE 350), at least half of the directors, excluding the chairman, should be non-executives, determined by the board to be independent and identified in the annual report as such. A smaller company should have at least two independent non-executive directors. The board should appoint one of the independent non-executive directors to be the senior independent director who should be available to shareholders if they have concerns that have not been resolved through the normal channel of the chairman, chief executive or finance director or for which contact through the normal channels is inappropriate. Levels of remuneration for non-executive directors should reflect the time, commitment and responsibilities of the role.

4.1.3 Committees

Nomination committee

There should be a nomination committee of whom a majority of members should be independent non-executive directors. The chairman or an independent non-

executive should chair the committee, but the chairman should not chair the nomination committee when it is dealing with the appointment of a successor to the chairmanship. The nomination committee should evaluate the balance of skills, knowledge and experience on the boards.

Audit committee

The board should establish an audit committee of at least three (or, in the case of smaller companies, two) members who should all be independent non-executives. At least one member is required to have recent and relevant financial experience. The revised Combined Code sets out the role and responsibilities of the audit committee which includes monitoring and reviewing the external auditor's independence and objectivity and the effectiveness of the audit process.

Remuneration committee

As with the audit committee, the remuneration committee should have at least three (or, in the case of smaller companies, two) members who should all be independent non-executive directors. In addition, the company chairman may also be a member of, but not chair, the committee if he/she is considered independent on appointment as chairman. The committee should have delegated responsibility for setting remuneration for all executive directors and the chairman, including pension rights and any compensation payments.

In addition to the matters discussed above, the Combined Code, in its schedules and in its "Related Guidance and Good Practice Suggestions", provides for:

- (a) the design of performance related remuneration;
- (b) liability of non-executive directors;
- (c) disclosure of corporate governance arrangements;
- (d) guidance on internal control;
- (e) guidance on audit committees;
- (f) guidance for the chairman;
- (g) guidance for the non-executive directors;
- (h) the principal duties of the remuneration committee;
- (i) the principal duties of the nomination committee;
- (j) a pre-appointment checklist for new board members;
- (k) a sample letter of appointment of a non-executive director;
- (l) an induction checklist; and
- (m) a performance evaluation checklist.

4.1.4 Relations with shareholders

The final part of the Combined Code centres on the need for companies to be ready, where practicable, to enter into a dialogue with institutional shareholders

and also to make constructive use of the annual general meeting to communicate with private investors and to encourage their participation.

SECTION B: SHARE DEALINGS

1 DISCLOSURE OF DIRECTORS' AND CONNECTED PERSONS' DEALINGS

1.1 Directors of all companies incorporated in the UK, whether public or private, are under a statutory obligation to notify the Company in writing of all shareholdings (including those of their spouse or civil partner and infant children or stepchildren) or in options over securities of the Company or its subsidiaries (together the "Group"). They must also notify all changes to such shareholdings in the Company or in securities of other members of the Group, in both cases within five days of becoming a director or of the change in interest, as the case may be. Although the directors of the Company may not be subject to the same disclosure obligations under Dutch law, it would be prudent for the Company to require such disclosure to be made.

1.2 AIM companies must notify the RIS of any "deals" by "directors". A director is defined in the AIM Rules as a person who acts as a director whether or not officially appointed to such position. Further, the AIM Rules definition of a deal includes any change to the holding of AIM securities of an AIM company in which the holder is a director or part of a director's family. A director's family includes connected trusts and companies. As already noted, AIM companies must notify the grant or acceptance of options involving the company's securities to or by a director, his and her immediate family or a connected company or trust as well as the exercise of, and dealings in, options and other similar rights and obligations (including traded options) by such persons.

2 RESTRICTIONS ON DEALINGS

2.1 Dealings by a director in a company's listed securities are restricted by Part V of the (English) Criminal Justice Act 1993 (the "insider dealing legislation"), which imposes prohibitions on "insider dealing", creating criminal penalties for individuals who contravene these provisions. Financial penalties may also be imposed by the FSA for conduct which constitutes "market abuse" as defined in Part VIII of FSMA. In addition, Rule 21 of the AIM Rules governs dealings by the Company's directors, their connected persons and applicable employees in the Company's securities.

- 2.2 In summary, Rule 21 of the AIM Rules prohibits the directors and applicable employees of an AIM company from dealing in any of its AIM securities during a close period (except in exceptional circumstances). In addition, the purchase or early redemption by the Company of such securities or the sale of any such securities held as treasury securities must not be made during a close period. A close period is the two month period immediately preceding the publication of the Company's annual results and, if it reports half yearly, the two month period immediately preceding the announcement of its half yearly report and, if it reports on a quarterly basis, the one month period immediately preceding the announcement of the Company's quarterly results, when a director can be presumed to be in the possession of price-sensitive information. It also prohibits dealings when a director is in possession of unpublished price-sensitive information. The grant or acceptance of options, the exercise of options and dealings in options are all dealings for these purposes. The AIM Rules set out certain other transactions which are also regarded as dealings and relevant procedures to be followed before a director can deal.
- 2.3 The restrictions on dealing in securities also apply to members of the directors' immediate family and to connected companies and trusts.
- 2.4 It is advisable for the directors of the Company to establish a share dealing code which provides a framework around which the Company can control the dealings of its directors and applicable employees. All directors of the Company and all employees and, where relevant, any subsidiary undertakings should be provided with a copy so they are familiar with the dealing restrictions contained in the AIM Rules. The Company has adopted or will be adopting its own code on dealings in securities. The purpose of the Company's code is to ensure that, even if not prohibited by the "insider dealing" or "market abuse" legislation from dealing, certain employees and persons connected with them do not abuse, or do not place themselves under suspicion of abusing, price-sensitive information that they may have or be thought to possess. This is especially the case in periods leading up to an announcement of results. The directors of the Company should ensure that they are familiar with the provisions contained in the Company's code and that all employees of the Company and, where relevant, of any subsidiary undertakings are provided with a copy.

3 **THE (ENGLISH) CRIMINAL JUSTICE ACT 1993, PART V - INSIDER DEALING**

- 3.1 If an individual has inside information on securities which, if it were made public, would significantly affect their price, then it is a criminal offence for the individual to deal in those securities on a regulated market or through a professional intermediary, or to encourage another person to deal in them. It is also a criminal offence to disclose the information to another person, other than in the proper performance of his/her employment, office or profession.
- 3.2 Persons convicted of insider dealing can be jailed for up to seven years and fined.
- 3.3 Points to note in relation to the insider dealing regime include the following:
- 3.3.1 AIM is a regulated market for the purpose of this particular legislation;
- 3.3.2 the director or employee concerned can commit an offence even if he/she does not deal in the Company's securities himself/herself;
- 3.3.3 the offence of encouragement can be committed even though the individual in question is acting in the proper performance of the functions of his/her office or employment;
- 3.3.4 for the offence of disclosure, the prosecution does not have to prove that the insider knew or had reasonable cause to believe that the recipient of the information would deal. However, it would be a defence for the insider to show that he/she did not expect anyone to deal as a result of the disclosure;
- 3.3.5 a director or employee may be guilty of insider dealing in relation to the securities of another company if he/she has obtained information which he/she knows is price-sensitive inside information in relation to that other company because he/she is a director or employee of the other company or because he/she has access to the information by virtue of his/her employment or office (so, if the Company is in negotiations with another public company and a director is involved in those negotiations, any price-sensitive information which he/she gains in relation to the other company will make him/her an insider in relation to that company); and
- 3.3.6 a director or employee who communicates information which is price sensitive in relation to his/her company's securities to selected shareholders or analysts is likely to commit an offence.

4 MARKET ABUSE

- 4.1 A new civil offence of market abuse was introduced by FSMA. This gave the FSA the power to counter market abuse and is relevant to all transactions in investments which are traded on a prescribed market including AIM.
- 4.2 The previous UK market abuse regime defined market abuse as three categories of behaviour which occurred in relation to qualifying investments (including securities) traded on a prescribed market *which was likely to be regarded by a regular user of the relevant market as a failure to observe the standard of behaviour reasonably expected of the person concerned in his position in relation to the market*. The words in italics were and still are a qualification known as the "regular user test". The behaviour concerned had to fall within any one or more of the types of behaviour listed as conditions.
- 4.3 As a result of the implementation of the EU Market Abuse Directive, the market abuse regime was modified in a number of respects with effect from 1 July 2005 and Disclosure Rules were published. The new definition of market abuse identifies seven types of behaviour which can constitute market abuse. These include insider dealing, improper disclosure, manipulating transactions and dissemination of false or misleading information. Two residual categories remain based on the previous market abuse regime in the UK. These cover types of behaviour which involve either the misuse of relevant information or other forms of misleading behaviour or market distortion which, in each case, a regular user of the market in question would consider to be a failure to observe reasonable standards of behaviour. These two residual categories of market abuse which formed part of the previous UK market abuse regime will automatically lapse on 30 June 2008 unless re-enacted by (the UK) Parliament.

The FSA, as required by FSMA, has produced a Code of Market Conduct which provides guidance as to whether or not behaviour constitutes market abuse. Where the Code of Market Conduct expressly states that particular behaviour does not amount to market abuse, any person behaving in that way has an absolute defence. Where, however, it states that particular behaviour does amount to market abuse, it is of evidential value only and may be challenged in the courts.

The following are illustrations of market abuse that are set out in the Code of Market Conduct:

- An employee at a company that is traded on AIM (the "Company") hears that the Company has just lost a significant contract and on the basis of that information sells his shares before the information is announced via a regulatory information service. This is an example of insider dealing.
- A director at the Company tells a friend over lunch that the Company has received a takeover offer at a premium to the current share price. The friend has no connection with the Company or its advisers. This is an example of improper disclosure.
- A director at the Company tells a friend over lunch that his company has received a takeover offer. The friend places a bet that the Company will be the subject of a bid within a week, based on his expectation that a bid will be announced over the next few days. This behaviour may amount to misuse of information.
- A person responsible for the content of information submitted to a regulatory information service submits information which is false or misleading as to qualifying investments. He knows or is reckless as to whether the information is false or misleading. This behaviour may amount to dissemination of false or misleading information.

The FSA has power to impose a financial penalty of any amount for market abuse and has certain other powers such as the right to issue a public censure. These powers are subject to an appeal procedure. The FSA also has the right to apply to the court for certain other remedies. In addition, it has wide investigatory powers.

This area of law not only overlaps with the criminal offence of insider dealing, but also with the offences of making misleading statements or engaging in misleading practices set out in section 397 FSMA. Directors should be on their guard and should always seek advice when they are in doubt about the legal implications of any course of conduct involving transactions or conduct which potentially falls within the ambit of the market abuse regime.

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