

# Engaging an expert valuer

## Instructions Checklist

### 1 Names of engaging party or parties including details of legal representatives

### 2 Role required (single expert, shadow expert or consultant)

- » A single expert must be independent, impartial and has an overriding duty to assist the court on matters relevant to the expert's area of expertise.
- » With a shadow expert, consider the strategic benefit of involving him/her early. Have a shadow expert available even if they just do a desk top review of the single expert's report.
- » Will the chosen expert be required to engage with other experts in conferences and/or provide expert testimony in court?
- » Consultant – i.e. member of the team.

### 3 What is being valued

- » Shares (equity interests) or business – provide entity details and/or description of the business(es).
- » Describe the nature of the ownership interest to be assessed.

### 4 Scope of Valuation

- » Formal valuation (unrestricted scope)
- » Indicative assessment (restricted or limited scope)
- » Calculation engagement – agreed procedures in respect of valuation methodology e.g. formula based model as outlined in the Constitution or Shareholders' Agreement.

### 5 Specific issues to be investigated and for which an opinion is sought

- » Specific questions to be addressed regarding loss assessment or valuation
- » Minority discount compared to pro rata value
- » Potential tax liabilities, transaction costs and impact of related party loan accounts
- » Sensitivity analysis e.g. uncertainties regarding remuneration levels.
- » Highlighting/identifying all errors contained in the single expert's report regardless of materiality.

### 6 Valuation date – current or retrospective (end of latest financial period or other period)

### 7 Purpose of the valuer's opinion

- » Benefit of the court
- » Preliminary discussions and mediation
- » Facilitate negotiation of financial settlement
- » Cross examination purposes.

### 8 Basis or standard of value

- » Fair market value (willing buyer willing seller)
- » Fair value (known purchaser or value/worth to the owner)
- » Liquidation value (orderly or forced).

### 9 Deliverable – written or verbal report

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### 10 Material assumptions

- » Accept management prepared cash flow projections verbatim
- » Ability of the subject business or company to borrow as a stand-alone entity (without collateral security)
- » Remuneration paid to related parties is commercial or nominate specific level of remuneration and assume it represents the market rate
- » Rent paid to related parties in respect of freehold assets is commercial
- » Dividend policies (relevant to minority interest valuations).

### 11 Sources of information and access protocols

- » Request valuer to provide a listing of information requirements
- » Specify the person responsible for providing the valuer with relevant information.
- » If appropriate, provide phone and email details of contact person. Should the valuer contact the Accountants, (internal or external) directly or should all enquiries and requests for information be directed through the instructing solicitors?
- » Draft report to be issued to management (factual content only) for confirmation of completeness and accuracy (prior to completion of the valuer's report).

### 12 Acknowledgement of Expert Evidence Rules

- » The valuer must acknowledge in writing in his/her letter of engagement and report that he/she has read the relevant rules and agrees to abide by them.

### 13 Timing and reporting requirements for completion of engagement

- » Specify timelines and reporting deadlines for expert.
- » Specify report distribution i.e. who is the valuation report to be provided to?
- » Consider electronic form and/or hard copies.

### 14 Fees and timing questions

- » Hourly rates for time incurred, fixed fees or capped fees?
- » Preparation and appearance in Court
- » Timing of billings – during work in progress or at conclusion of the matter?

### 15 Settlement of fees

- » Who will be responsible for payment of the valuer's fees and to whom should invoices be addressed?

### 16 Use of 'third party' expert(s)

- » Tax specialists in respect of potential tax liabilities
- » Real estate agent valuations regarding market value of freehold and commercial rentals
- » Plant & Equipment assessment.

Hall Chadwick Forensics provides comprehensive forensic services to investigate the true financial position of a situation and provide evidence in relation to a dispute. Call expert our team:

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