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COMPANIES FORM No. 155(6)b

## Declaration by the directors of a holding company in relation to assistance for the acquisition of shares

# 155(6)b

Please do not  
write in this  
margin

Pursuant to section 155(6) of the Companies Act 1985

Please complete  
legibly, preferably  
in black type, or  
bold block lettering

To the Registrar of Companies

For official use

Company number

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2477871

Name of company

\* EVENGAIN LIMITED

**Note**  
Please read the notes  
on page 3 before  
completing this form.

\* insert full name  
of company

~~† We~~ DAVID PETER BULL OF CATSFIELD PLACE, CATSFIELD, BATTLE,  
EAST SUSSEX TN33 9BS

Ø insert name(s) and  
address(es) of all  
the directors

ALAN JAMES WATSON OF MUSKETEERS, NEW HALL ROAD, DYMCHURCH,  
KENT TN29 0LE

† delete as  
appropriate

~~† the sole director~~ ~~†~~ all the directors† of the above company (hereinafter called 'this company') do  
solemnly and sincerely declare that:

§ delete whichever  
is inappropriate

The business of this company is:

- ~~(a) that of a [recognised bank][licensed institution]† within the meaning of the Banking Act 1979~~  
~~(b) that of a person authorised under section 3 or 4 of the Insurance Companies Act 1982 to carry on~~  
~~insurance business in the United Kingdom~~  
(c) something other than the above§

This company is ~~the~~ ~~†~~ holding company of\* SOTUTA LIMITED (COMPANY  
NUMBER 936576) ("THE CHARGOR") which is

proposing to give financial assistance in connection with the acquisition of shares

in ~~this company~~ ~~†~~  
the holding company of this company.†

Presentor's name address and  
reference (if any):

DMH (REF: 428)  
40 HIGH STREET  
CRAWLEY  
WEST SUSSEX  
RH10 1BW

For official Use  
General Section

Post room



A26  
COMPANIES HOUSE

\*A5JBTCQ4\*

0322  
23/07/02

The assistance is for the purpose of ~~(that acquisition)~~ ~~reducing or discharging a liability incurred for the purpose of that acquisition~~† (note 1)

Please do not  
write in  
this margin

The number and class of the shares acquired or to be acquired is: 28,598 ORDINARY SHARES  
OF 10p EACH

Please complete  
legibly, preferably  
in black type, or  
bold block lettering

The assistance is to be given to: (note 2) CINQUE PORTS LEISURE LIMITED (COMPANY  
NUMBER 2434151) WHOSE REGISTERED OFFICE IS AT COGHURST HALL,  
IVYHOUSE LANE, ORE, HASTINGS, EAST SUSSEX TN35 4NP

The assistance will take the form of:

SEE EXHIBIT A

The person who ~~has acquired~~ ~~(will acquire)~~† the shares is:

CINQUE PORTS LEISURE LIMITED (COMPANY NUMBER 2434151)

† delete as  
appropriate

The principal terms on which the assistance will be given are:

SEE EXHIBIT B

The amount (if any) by which the net assets of the company which is giving the assistance will be reduced  
by giving it is NIL

The amount of cash to be transferred to the person assisted is £ NIL

The value of any asset to be transferred to the person assisted is £ NIL

Please do not  
write in  
this margin

Please complete  
legibly, preferably  
in black type, or  
bold block lettering

\* delete either (a) or  
(b) as appropriate

The date on which the assistance is to be given is WITHIN 4 WEEKS OF 16 JULY 19 2002

~~1~~ We have formed the opinion, as regards this company's initial situation immediately following the date on which the assistance is proposed to be given, that there will be no ground on which it could then be found to be unable to pay its debts.(note 3)

~~(a)~~ We have formed the opinion that this company will be able to pay its debts as they fall due during the year immediately following that date.\* (note 3)

~~(b)~~ ~~It is intended to commence the winding up of this company within 12 months of that date, and I/we have formed the opinion that this company will be able to pay its debts in full within 12 months of the commencement of the winding up.]~~\*(note 3).

And ~~1~~ we make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

Declared at Belgrave House  
Canby, West Sussex

Declarants to sign below

the 16<sup>th</sup> day of July  
~~one thousand nine hundred and~~ 2002

before me [Signature]

A Commissioner for Oaths or Notary Public or Justice of the Peace or a Solicitor having the powers conferred on a Commissioner for Oaths.

## NOTES

- 1 For the meaning of "a person incurring a liability" and "reducing or discharging a liability" see section 152(3) of the Companies Act 1985.
- 2 Insert full name(s) and address(es) of the person(s) to whom assistance is to be given; if a recipient is a company the registered office address should be shown.
- 3 Contingent and prospective liabilities of the company are to be taken into account - see section 156(3) of the Companies Act 1985.
- 4 The auditors report required by section 156(4) of the Companies Act 1985 must be annexed to this form.



**McPHERSON & PARTNERS**  
Chartered Accountants

23 St. Leonards Road, Bexhill-on-Sea, East Sussex TN40 1HH. Telephone (01424) 730000. Fax (01424) 730489.

E-mail: bexhill@mcphersons.co.uk Website: www.mcphersons.co.uk

**Auditors' Report to the Directors of Evengain Limited ("the Company")**  
**In Connection with Sotuta Limited**  
**Pursuant to Section 156(4) of the Companies Act 1985**

We have examined the attached Statutory Declaration of the Directors dated 16<sup>th</sup> July 2002 in connection with the proposal that Sotuta Limited (of which the Company is the holding company) should give financial assistance for the purchase of all the Company's ordinary shares. We have enquired into the state of the Company's affairs, so far as necessary, in order to review the bases for the Statutory Declaration.

We are not aware of anything to indicate that the opinion expressed by the Directors in their Declaration as to any of the matters mentioned in Section 156(2) of the Companies Act 1985 is unreasonable in all circumstances.

**McPherson & Partners**  
**Chartered Accountants & Registered Auditors**

Dated:

16 July 2002

23 St Leonards Road  
Bexhill-on-Sea  
East Sussex  
TN40 1HH

**Form 155(6)(b) continuation sheet**

**Name of company: Evengain Limited**

**Company number: 2477871**

**Exhibit A**

The execution, delivery and performance by the Chargor of a Composite Guarantee and Debenture (the "Guarantee and Debenture") in favour of The Royal Bank of Scotland plc as security trustee (the "Security Trustee") for the Secured Parties (as defined below).

**Exhibit B**

Under the terms of the Guarantee and Debenture:

1

- 1.1 The Chargor guarantees to the Security Trustee as agent and trustee for the Secured Parties (as defined below) that it shall on demand pay to the Security Trustee in the currency in which the same falls due for payment all moneys which are now or at any time hereafter shall have become due or owing by any Group Company (as defined below) to any or all of the Secured Parties.
- 1.2 The Guarantee given pursuant to Clause 1.1 is given subject to, and with the benefit of the provisions set forth in Schedule 1 of the Guarantee and Debenture.
- 1.3 The Chargor covenants with the Security Trustee as agent and trustee for the Secured Parties that it shall, to the extent that the same have fallen due and have not been paid pursuant to the terms of the relevant Financing Document (as defined below), pay to the Security Trustee on demand all costs and expenses incurred by the Security Trustee in relation to the Guarantee and Debenture and the protection or enforcement of the Security Trustee's rights thereunder.

2

- 2.1 The Chargor, with full title guarantee, as continuing security for the payment of the Secured Obligations (as defined below) charges in favour of the Security Trustee (as agent and trustee for the Secured Parties):
  - (a) by way of legal mortgage all estates or interests in the freehold, leasehold and other immovable property described in Schedule 2 of the Guarantee and Debenture and the proceeds of sale thereof and all buildings and trade and other fixtures on any such property belonging to or charged to the Chargor (the "Legally Mortgaged Property");
  - (b) by way of fixed charge all estates or interests in any freehold, leasehold and other immovable property now or at any time during the continuance of this security belonging to the Chargor (other than the Legally

Mortgaged Property) and the proceeds of sale thereof and all buildings and trade and other fixtures from time to time on any such property belonging to or charged to the Chargor;

- (c) by way of fixed charge all plant, machinery, vehicles, computers and office and other equipment owned by the Chargor both present and future;
- (d) by way of fixed charge all stocks, shares, debentures, bonds, notes and loan capital of:
  - (i) any Subsidiary (as defined below); and
  - (ii) any other body corporate;

and all rights to subscribe for, redeem, convert other securities into or otherwise acquire any of the same which may now or hereafter belong to the Chargor, together with all dividends, interest and other income and all other rights of whatsoever kind deriving from or incidental to any of the foregoing;

- (e) by way of fixed charge the goodwill of the Chargor and its uncalled capital at the date of execution of the Guarantee and Debenture or at any time thereafter in existence;
- (f) by way of fixed charge all copyrights, patents, patent applications, licences, trade marks, tradenames, know-how and inventions or other rights of every kind deriving therefrom at the date of execution of the Guarantee and Debenture or at any time thereafter belonging to the Chargor and all fees, royalties and other rights of every kind deriving from such copyrights, patents, trade marks, tradenames, know-how and inventions; and
- (g) by way of floating charge the whole of the Chargor's undertaking and all its property, assets and rights, whatsoever and wheresoever, present and future, other than any property or assets from time to time or for the time being effectively mortgaged or charged to the Security Trustee by way of fixed charge by this sub-Clause (the "Floating Charge Property").

2.2 The security constituted by or pursuant to the Guarantee and Debenture shall be in addition to and shall be independent of every bill, note, guarantee, mortgage, pledge or other security which the Security Trustee or any other Secured Party may at any time hold in respect of any of the Secured Obligations and no prior security held by the Security Trustee or any other Secured Party over the Charged Property (as defined below) or any part thereof shall merge in the security created by or under the Guarantee and Debenture.

2.3 The Guarantee and Debenture shall remain in full force and effect notwithstanding any amendments or variations from time to time to any Financing Documents and all references to any Financing Document herein shall be taken as referring to that Financing Document as amended or varied from time

to time (including, without limitation, any increase in the amount of the Secured Obligations).

3

- 3.1 The Chargor covenants that without the prior written consent of the Security Trustee the Chargor shall not nor shall it agree or purport to:
- (a) create or permit to subsist any Encumbrance (as defined below) whether in any such case ranking in priority to or pari passu with or after the security created by the Guarantee and Debenture other than as permitted under the Credit Agreement (as defined below); or
  - (b) sell, discount, factor, transfer, lease, lend or otherwise dispose of, whether by means of one or a number of transactions related or not and whether at one time or over a period of time, the whole or any part of its undertaking or assets except as permitted under the Credit Agreement.
- 3.2 The Chargor shall, at the request of the Security Trustee and at the expense of the Chargor, forthwith do all acts and things and execute in favour of the Security Trustee, or as it may direct, such further or other legal assignments, transfers, mortgages, charges, securities and other deeds and documents as the Security Trustee may require, in such form as the Security Trustee may require as security for the payment and discharge of the Secured Obligations.

#### **Definitions**

"Group Company" means each and any of Evengain Limited and its Subsidiaries; and "Group Companies" shall be construed accordingly

"Subsidiary" means a subsidiary within the meaning of section 736 of the Companies Act 1985 and "Subsidiaries" shall be construed accordingly

"Credit Agreement" means the Credit Agreement dated 31 January 2001 (as amended and restated from time to time) made between Cinque Ports Leisure Limited (registered no. 2477871) (the "Borrower"), certain Banks (as defined therein) (the "Banks") and The Royal Bank of Scotland plc as Agent and Security Trustee

"Secured Obligations" means all actual, contingent, present and/or future obligations and liabilities of the Chargor to any of the Secured Parties howsoever arising

"Secured Parties" means all and each of the Facility Agent, Security Trustee, the Overdraft Bank, the Banks (as such terms are further defined in the Credit Agreement), National Westminster Bank plc, The Royal Bank of Scotland plc, and the Governor and Company of the Bank of Scotland and "Secured Party" shall be construed accordingly

"Encumbrance" means any mortgage, charge, assignment by way of security, pledge, hypothecation, lien, right of set-off, retention of title provision, trust or flawed asset arrangement (for the purpose of, or which has the effect of, granting security) or any other security interest of any kind whatsoever, or any agreement whether conditional or

otherwise, to create any of the same, or any agreement to sell or otherwise dispose of any asset on terms whereby such asset is or may be leased to or re-acquired by any Group Company

"Financing Documents" means the Credit Agreement, the Security Documents (as further defined in the Credit Agreement), the Interest Rate Protection Agreement and such other document as the parties to the Credit Agreement shall agree constitutes a Financing Document including the Guarantee and Debenture.