

TO ALL KNOWN CREDITORS

6 July 2021

Ref: FLT/SEC/LJ/D16.1  
Direct line: 0141 226 9332  
Laura Jones  
Email: scarragher@parthenon.ey.com

Dear Sirs

## **Land Engineering (Scotland) Limited (In Administration) ('the Company')**

### **Court of Session**

I write, in accordance with Rule 3.93 of the Insolvency (Scotland) (Company Voluntary Arrangements and Administration) Rules 2018, to provide creditors with a report on the progress of the Administration. This report covers the period from 30 November 2020 to 29 May 2021 and should be read in conjunction with the Joint Administrators' statement of proposals ('the proposals') dated 5 June 2017 and subsequent reports dated 13 December 2017, 19 June 2018, 9 January 2019, 25 June 2019, 8 January 2020, 8 July 2020 and 5 January 2021. Statutory information about the Company, the Administration and the office holders is given at Appendix 1.

### **Summary of progress**

#### **Overview**

As set out in detail within the proposals, a sale of part of the Company's business and assets to idverde Limited ('idv') was completed on 30 May 2017 and the Company's remaining business ceased to trade on this date.

Progress with realising the Company's assets is discussed in further detail below. We are, however, pleased to report current gross asset realisations to date of £5.03m. This represents an increase of £86k since our last report and compares favourably with the figure of £4.22m included in the Statement of Affairs submitted by the Company's Directors following the appointment.

#### **Debtors and Retentions**

As previously advised, the sale to idv did not include the book debts and retention sums owing to the Company in relation to the business transferred at the date of appointment and idv were appointed to act as our agents to collect these amounts on our behalf. Total realisations of £2.013m have been achieved to date. We continue to work closely with idv and our agents, G A Johnston Associates ('GAJ') with a view to finalising the position within the next 3 months.

In relation to the remainder of the Company's business not sold to idv, GAJ were appointed as our agents to collect the WIP/debtors/retention balances due to the Company and I am pleased to advise that a further £19k has been collected since our last report, resulting in total realisations to date of £614k. GAJ are similarly hopeful that the final accounts with the remaining customers can be agreed within the next 3 months.

### **Third Party Loans**

As you may recall, the Company had provided loans to a number of third parties prior to the appointment amounting to £297k and certain elements of these loans had maturity dates of up to 2025.

I am pleased to report that, following significant correspondence and discussions with the relevant third parties, we have agreed and collected final settlement payments of £50k during the current period, resulting in total realisations of £107k from these loans.

Creditors should note that consideration was given to raising legal proceedings however it was felt that the time and cost involved would not be commensurate with the possible returns available from taking action, given both the complex counterclaims which had been intimated and the financial positions of the third parties concerned.

### **Extension of Administration**

We are pleased to advise that the Court of Session has recently granted an extension of the Administration by 12 months to 29 May 2022 and the necessary statutory form has been filed with the Registrar of Companies. We do not anticipate that any further extensions will be required and are hopeful that we will be in a position to close the Administration prior to 29 May 2022.

### **Receipts and payments account**

A summary of our receipts and payments for the period from 30 November 2020 to 29 May 2021 is attached at Appendix 2. It does not reflect estimated future realisations or costs.

### **Joint Administrators' remuneration**

The statutory provisions relating to remuneration are set out in Rules 3.95 to 3.101 of the Insolvency (Scotland) (Company Voluntary Arrangements and Administration) Rules 2018 ('the 2018 Rules').

In certain circumstances, creditors are entitled to request further information about our remuneration or outlays, or to apply to court if they consider the costs to be excessive (Rule 3.100, the 2018 Rules). Further information is given in 'A Creditors' Guide to Administrators' Fees', a copy of which may be accessed from the web site of the Institute of Chartered Accountants of Scotland at <https://www.icas.com/technical-resources/creditor-guides-to-office-holder-remuneration> or is available in hard copy upon written request to the Joint Administrators.

In accordance with the proposals deemed approved by the creditors on 16 June 2017, the Administrators' remuneration was fixed on a time-cost basis by resolutions of the secured and preferential creditors.

As creditors may recall, with asset realisations exceeding the original estimates and both the secured and preferential creditors' debts having been paid in full, the Administrators sought to have the original proposals amended to provide for the Administrators' remuneration with effect from 28 September 2019 to be fixed on a time-cost basis by the unsecured creditors (or a creditors' committee, if one was established).

The revision to our proposals was subsequently approved by the unsecured creditors by way of a decision procedure on 11 February 2020, and the Court has confirmed that there is no requirement to also have the secured and preferential creditors approve the Administrators' remuneration.

During the period covered by this report, the Administrators have incurred time costs of £141,927. A detailed analysis and narrative explanation of the time incurred, and work completed is attached at Appendix 3 to this report together with a statement of the Administrators' policy in relation to charging time. Together with the time incurred previously of £1,662,944 this results in total time incurred to 29 May 2021 of £1,804,871, of which £1,662,943 has been approved and drawn. This includes further interim fees of £57,309 and £83,663 incurred in the periods from 30 November 2019 to 29 May 2020 and 30 May 2020 to 29 November 2020 respectively which were approved by the unsecured creditors by way of a decision procedure on 29 January 2021 and drawn since our last report.

Whilst additional floating charge realisations of £86,238 have been achieved in the period, the Joint Administrators are not requesting approval of any further fees at this stage. We would propose to revisit the overall fee position at the time of our next progress report when the asset realisations should be finalised and we have a clearer picture of the likely dividend available to unsecured creditors.

### **Joint Administrators' outlays**

During the period covered by this report, Category 2 expenses of £493 have been incurred. An analysis of the expenses paid to date is attached at Appendix 4. We would propose to defer seeking approval of these expenses until our next progress report.

At Appendix 4 there is also a statement of the Administrators' policy in relation to charging expenses.

### **Creditors' committee**

As part of the latest decision procedure issued to creditors to approve our fees and Category 2 expenses up to 29 November 2020, creditors were invited to establish a creditors' committee. No creditors expressed a willingness to do so.

### **Distributions to creditors**

#### *Secured creditors*

As previously advised, as a result of the realisations achieved and the release of the outstanding performance bonds, Bank of Scotland plc, the Company's secured lender, was repaid in full on 27 September 2019.

#### *Preferential creditors*

A distribution of 100p in the £ was paid to the preferential creditors in June 2018 in respect of employees' salaries, holiday pay and pension contributions.

#### *Non-preferential creditors*

It is clear that there will be sufficient funds available to enable a distribution to be made to the non-preferential unsecured creditors. The timing and quantum of the dividend is dependent on the extent of additional floating charge asset realisations achieved and further claims submitted. Based on current estimates, the dividend is however likely to be approximately 5p in the £ (including the Prescribed Part discussed below).

We have commenced the adjudication of non-preferential unsecured claims and anticipate being in a position to have agreed all claims within the next 6 months with a view to a first and final dividend being issued in the first quarter of 2022.

## **The Prescribed Part**

The Prescribed Part is a proportion of floating charge assets set aside for unsecured creditors pursuant to Section 176A of the Insolvency Act 1986. The Prescribed Part applies to floating charges created on or after 15 September 2003. The Company's floating charge was created on 24 June 2011 and accordingly the Prescribed Part will apply.

The value of the Prescribed Part is currently estimated at £354k. The cost of the Joint Administrators' fees associated with dealing with the Prescribed Part would then need to be deducted from this figure.

As noted above, there will however be sufficient funds available in excess of the aforementioned sum to enable a distribution to the unsecured creditors other than by virtue of the Prescribed Part. As a result, creditors will receive one dividend payment in respect of both the Prescribed Part and the excess sums realised.

## **Application to Court for permission to make distribution to non-preferential creditors**

During the period, the Court of Session granted the Administrators permission to make a distribution to the non-preferential creditors of the Company in terms of Paragraph 65(3)(b) of Schedule 1 of the Insolvency Act 1986. This avoids the increased costs of moving the Company from Administration to Creditors' Voluntary Liquidation before a distribution can be made and also allows for a distribution to be made more quickly.

## **Remaining work**

We will continue to deal with the Administration in line with the stated objectives outlined in the proposals. Future tasks will include, but may not be limited to, the following:

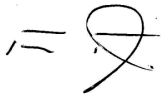
- seeking to realise value from all remaining assets including collecting outstanding book debts, retentions and non-trade balances;
- dealing with unsecured creditor enquiries;
- adjudicating on non-preferential claims and paying a dividend to non-preferential creditors;
- finalising the Administration including the payment of all Administration period liabilities;
- preparing and filing post appointment corporation tax and VAT returns;
- completion of statutory and reporting requirements of the Administration;
- any such actions the Joint Administrators consider, in their reasonable opinion, are necessary and/or expedient to fulfil the purpose of the Administration; and
- bringing the Administration to a conclusion.

## Next report

We will report to you again in six months' time.

In the meantime, if you have any queries regarding the content of this report, please contact my colleague, Laura Jones, on 0141 226 9332.

Yours faithfully  
for Land Engineering (Scotland) Limited (In Administration)



F L Taylor  
Joint Administrator

F L Taylor is licensed in the United Kingdom to act as an Insolvency Practitioner by The Institute of Chartered Accountants in England and Wales and C P Dempster is licensed in the United Kingdom to act as an Insolvency Practitioner by The Institute of Chartered Accountants of Scotland.

The affairs, business and property of the Company are being managed by the Joint Administrators, F L Taylor and C P Dempster, who act as agents of the Company only and without personal liability.

The Joint Administrators may act as data controllers of personal data as defined by the UK General Data Protection Regulation (as incorporated in the Data Protection Act 2018), depending upon the specific processing activities undertaken. Ernst & Young LLP and/or the Company may act as a data processor on the instructions of the Joint Administrators. Personal data will be kept secure and processed only for matters relating to the Joint Administrators' appointment. The Office Holder Data Privacy Notice can be found at [www.ey.com/uk/officeholderprivacy](http://www.ey.com/uk/officeholderprivacy)

## Appendix 1

### Information about the proceedings, the Company and the office holders, as required by Rule 3.94 of the Insolvency (Scotland) (Company Voluntary Arrangements and Administration) Rules 2018

Name of court:	Court of Session
Registered name of the Company:	Land Engineering (Scotland) Limited (In Administration)
Registered office address of the Company:	c/o Ernst & Young LLP, Atria One, 144 Morrison Street, Edinburgh, EH3 8EX
Registered number:	SC070682
Country of incorporation (for a company incorporated outside the United Kingdom):	N/A
Date of appointment of the Joint Administrators:	30 May 2017
Details of any changes of Administrator:	Andrew James Davison replaced as office holder by Fiona Livingstone Taylor on 14 December 2017
Full names of the Administrators:	Colin Peter Dempster and Fiona Livingstone Taylor
Office holder numbers:	8908 and 8787
Administrators' addresses:	Ernst & Young LLP Atria One, 144 Morrison Street, Edinburgh, EH3 8EX
Telephone number:	0141 226 9332
Name of alternative person to contact with enquiries about the case:	Laura Jones

## Appendix 2

### Land Engineering (Scotland) Limited (In Administration)

#### Joint Administrators' Summary of Receipts and Payments from 30 November 2020 to 29 May 2021

Estimated to Realise per Directors' Statement of Affairs	Receipts	Cumulative to 29 November 2020 (£)	Transactions since 30 November 2020 (£)	Cumulative to 29 May 2021 (£)
	800,000	1,020,020	0	1,020,020
	1,500,000 )	1,933,710	0	1,933,710
	)	79,114	0	79,114
	)	595,531	18,536	614,067
	640,000	348,583	0	348,583
	640,000 )	565,796	0	565,796
	)	223,398	0	223,398
		67,291	0	67,291
	25,000	25,000	0	25,000
		21,752	0	21,752
		4,558	17,702	22,260
	615,500	57,038	50,000	107,038
		333	0	333
	<b>4,220,500</b>	<b>4,942,124</b>	<b>86,238</b>	<b>5,028,362</b>
	<b>Payments</b>			
		1,514,304	0	1,514,304
		36,625	0	36,625
		55,085	0	55,085
		28,314	0	28,314
		14,876	0	14,876
		27,572	0	27,572
		28,650	0	28,650
		101,743	5,958	107,701
		37,487	2,145	39,632
		1,350	0	1,350
		1,521,971	140,972	1,662,943
		9,786	2,325	12,111
		85,300	0	85,300
		36,779	0	36,779
		3,444	0	3,444
		627	5	632
		694	0	694
		835	0	835
		72	0	72
		382	0	382
		928	0	928
		2,550	262	2,812
		1,775	0	1,775
		640,000	0	640,000
		101,433	0	101,433
		968	0	968
		<b>4,253,550</b>	<b>151,667</b>	<b>4,405,217</b>
				<b>623,145</b>
	<b>Represented by:</b>			
	BOS Current Account			142,096
	BOS Fixed Term Deposit Account			417,694
	RBS Current Account			6,510
	Trade Creditors			(155)
	Construction Industry Scheme			26,752
	VAT			30,247
				<b>623,145</b>
	<b>Notes</b>			
	1. Receipts and payments are stated net of VAT.			
	2. Trade creditors represent payments to suppliers which had not cleared the Current Accounts as at 29 May 2021.			

## Appendix 3

### Land Engineering (Scotland) Limited (In Administration)

#### Joint Administrators' time costs incurred from 30 November 2020 to 29 May 2021

##### (a) Time charging policy

The Administrators have engaged managers and other staff to work on the Administration. The work required is delegated to the most appropriate level of staff taking account of the nature of the work and the individual's experience. Additional assistance is provided by accounting and treasury executives dealing with the Company's bank accounts and statutory compliance diaries. Work carried out by all staff is subject to the overall supervision of the Administrators.

All time spent by staff working directly on case-related matters is charged to a time code established for the case. Time is recorded in units of six minutes. Each member of staff has a specific hourly rate, which is subject to change over time. The average hourly rate for each category of staff over the period is shown below, as are the current hourly rates used.

##### (b) Analysis of time costs

###### 30 November 2020 to 29 May 2021

Classification of work function	Hours				Total Hours	Total Time Cost £	Average Hourly Rate £
	Partner	Manager	Other Senior Professionals	Assistants & Support Staff			
Accounting & Administration	2.0	8.7	10.5	13.3	34.5	15,130	417
Creditors	0.0	31.8	6.9	5.1	43.8	25,413	569
Debtors	0.4	17.8	9.7	27.1	55.0	24,903	400
Employees	0.0	0.0	0.1	0.0	0.1	39	315
Legal Issues	0.0	2.8	1.0	0.6	4.4	2,422	535
Other Assets	0.5	46.2	5.3	2.3	54.3	34,420	627
Other Matters	0.0	1.9	10.9	0.0	12.8	5,489	369
Property	0.0	12.0	1.6	0.0	13.6	8,776	637
Retention of Title	0.0	0.5	0.0	0.7	1.2	495	413
Statutory Duties	1.5	9.9	22.9	15.4	49.7	20,336	377
VAT & Taxation	0.0	4.2	1.4	5.0	10.6	4,505	416
<b>Total hours</b>	<b>4.4</b>	<b>135.8</b>	<b>70.3</b>	<b>69.5</b>	<b>280.0</b>	<b>141,927</b>	
<b>Total time costs (£)</b>	<b>4,172</b>	<b>92,344</b>	<b>27,066</b>	<b>18,346</b>		<b>141,927</b>	
<b>Average hourly rate (£)</b>	<b>948</b>	<b>680</b>	<b>385</b>	<b>264</b>			

Current charge out rates		1 July 2020 to 30 June 2021
		£
Partner	Partner	1010
	Associate Partner	905
	Director	780
Manager	Assistant Director	680
	Senior Executive	520
Other Senior Professionals	Executive	385
	Assistant Executive	315
Assistants & Support Staff	Analyst	222-315
	Accounting and Treasury Executive	248-345

Category 1 Expenses	£
IT & Office Supplies	16.50
<b>Total</b>	<b>16.50</b>

Category 2 Expenses	£
Printing & postage	476.13
<b>Total</b>	<b>476.13</b>

<b>Total expenses</b>	<b>492.63</b>
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### (c) Narrative explanation of time incurred

Category of work	Description of work completed
Accounting & Administration	<ul style="list-style-type: none"> <li>▶ Overall management of the case, treasury and accounting functions, statutory compliance diaries and time cost reporting.</li> </ul>
Bank & Statutory Reporting	<ul style="list-style-type: none"> <li>▶ Preparing and issuing six monthly progress reports to all known creditors and regular reporting to the secured creditor.</li> </ul>
Creditors	<ul style="list-style-type: none"> <li>▶ Receipt and recording of creditor claims.</li> <li>▶ Correspondence with creditors.</li> <li>▶ Processing distributions to creditors (as applicable).</li> </ul>
Debtors	<ul style="list-style-type: none"> <li>▶ Working with idv and GAJ to realise value from book debts/WIP and retentions.</li> <li>▶ Correspondence with debtors regarding outstanding debts.</li> <li>▶ Discussions with customers regarding timing for the release of outstanding performance bonds.</li> </ul>
Employee Matters	<ul style="list-style-type: none"> <li>▶ Writing to employees regarding TUPE related matters.</li> <li>▶ Dealing with employee enquiries.</li> </ul>
Legal Issues	<ul style="list-style-type: none"> <li>▶ Dealing with ad hoc legal issues.</li> <li>▶ Liaising with HSE and legal advisors with regard to the fatal accident enquiry.</li> <li>▶ Application to Court for directions on the Joint Administrators' remuneration.</li> </ul>
Other Assets	<ul style="list-style-type: none"> <li>▶ Realising value from the Company's residual assets including third party and intercompany loans.</li> <li>▶ Liaison with the Liquidator of GES regarding the prospects of recovering the loan monies via the sale of the bio-gas plant.</li> </ul>
Other Matters	<ul style="list-style-type: none"> <li>▶ Assessing the status of the Company's physical books and records and electronic records.</li> </ul>
Property	<ul style="list-style-type: none"> <li>▶ Liaising with idv regarding issues arising from the short-term licence granted to occupy the property at Fenwick.</li> <li>▶ Dealing with issues relating to the settlement of liabilities for the Administration period.</li> <li>▶ Responding to ad hoc issues arising in relation to the Company's freehold property at Fenwick and leasehold property at Skypark.</li> </ul>
Retention of Title	<ul style="list-style-type: none"> <li>▶ Assessment and settlement of claims for retention of title from the Company's suppliers.</li> </ul>
Statutory Duties	<ul style="list-style-type: none"> <li>▶ Completion of statutory requirements of the Administration, including notifications to creditors, the Court and the Registrar of Companies regarding progress reports issued.</li> <li>▶ Seeking approval of remuneration and outlays from the secured creditor, the preferential creditors and non-preferential unsecured creditors, as appropriate.</li> <li>▶ Seeking extensions of the Administration from the Court.</li> <li>▶ Seeking permission from the Court to pay non-preferential unsecured creditors.</li> <li>▶ Seeking nominations from creditors to form a Creditors' Committee.</li> </ul>
VAT & Taxation	<ul style="list-style-type: none"> <li>▶ Preparing annual corporation tax and quarterly VAT returns, with input from EY VAT and tax specialists.</li> <li>▶ Issuing supporting documentation for a VAT inspection by HMRC.</li> <li>▶ Assessment of the VAT and tax treatment of transactions and agreements entered into during the Administration.</li> </ul>

### (d) Payments to other professionals

The Administrators engaged the following professionals during the current period to provide assistance. They were chosen on the basis of their experience in similar assignments.

Name of firm	Nature of services	How contracted to be paid	Paid during the period excl VAT (£)
Brodies LLP	Legal advisors	Time costs basis	5,958
G.A. Johnston Associates	Debt collection	Time costs basis	2,145
<b>Total</b>			<b>8,103</b>

## Land Engineering (Scotland) Limited (In Administration)

Summary of Joint Administrators' outlays incurred  
from 30 November 2020 to 29 May 2021

Type of Outlay	Paid as at 29 November 2020	Paid in period to 29 May 2021	Outstanding	Total
	£	£	£	£
<b>Category 1 expenses (see Note 1)</b>				
Specific penalty bond	967.50	-	-	967.50
Ground transportation	1,452.37	103.93	-	1,556.30
Meals & subsistence	36.92	12.85	-	49.77
IT & office supplies	-	8.72	16.50	25.22
<b>Category 2 expenses (see Note 1)</b>				
Mileage	53.65	-	-	53.65
Internal bulk copying, printing and postage	8,382.91	2,199.13	476.13	11,058.17
Meals & subsistence	103.50	-	-	103.50
<b>Totals</b>	<b>10,996.85</b>	<b>2,324.63</b>	<b>492.63</b>	<b>13,814.11</b>

**Note 1**

Statement of Insolvency Practice 9 (Scotland) ('SIP 9') defines expenses as a type of expense which is met by, and reimbursed to, an office holder in connection with an insolvency appointment. Expenses fall into two categories: Category 1 and Category 2.

- Category 1 expenses are payments to independent third parties where there is specific expenditure directly referable to the appointment
- Category 2 expenses are expenses which are directly referable to the appointment but are not payments to independent third parties. They may include shared and allocated costs.

It is our policy, in accordance with SIP 9, to disclose Category 1 and Category 2 expenses but only to seek approval for Category 2 expenses before they are drawn.