

TO ALL KNOWN CREDITORS

5 January 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 May 2020 to 29 November 2020 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 and 8 July 2020. 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 £4.94m which 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 the intention of completing this exercise within the next 6 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 total realisations of £595k have been achieved to date. GAJ continue to liaise with a number of customers to agree the remaining final accounts following expiry of the retention periods. As a result of COVID19, GAJ have advised that the position may not be finalised for another 12 months. A further update will be provided in our next report.

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. I am pleased to advise that a further £25k has been collected since our last report resulting in total realisations of £57k achieved to date. We are continuing to correspond with the relevant parties with a view to recovering the remaining loans outstanding and solicitors may be instructed in this regard. Creditors should however note that certain elements of these loans are not yet due for repayment with maturity dates of up to 2025.

Extension of Administration

We currently anticipate that we will require to apply to the Court of Session to further extend the period of the Administration by 12 months to 29 May 2022 to allow time to realise the remaining assets, finalise the adjudication of creditor claims and make distributions to the non-preferential creditors.

Should any creditors have an objection to this application, they should provide details of their objection to the Administrators by writing to Ernst & Young LLP, G1 Building, 5 George Square, Glasgow, G2 1DY by no later than 31 January 2021.

Receipts and payments account

A summary of our receipts and payments for the period from 30 May 2020 to 29 November 2020 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).

Whilst the revision to our proposals was approved by way of a decision procedure by the unsecured creditors on 11 February 2020, a question arose as to whether the interaction between Rule 3.96 and Rule 5.11 of the 2018 Rules required the Administrators still to seek approval of their remuneration from the secured and preferential creditors, despite no longer having an economic interest in the outcome of the case.

Although consideration of the matter was delayed by COVID19, I am pleased to advise that the Court of Session has confirmed that, with remuneration now being approved by the unsecured creditors (or a creditors' committee, if one is established), 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 £83,663. 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 £1,579,281 this results in total time incurred to 29 November 2020 of £1,662,944, of which £1,521,971 has been approved and drawn.

Pending clarification from the Court, the Administrators did not seek approval of the time costs of £57,309 incurred in the previous period to 29 May 2020. We are accordingly now seeking the creditors' approval to draw these time costs together with the costs incurred in the last 6 months by way of a decision procedure. Formal notice of the decision procedure and a voting form have been sent to you under separate cover.

Creditors' committee

As part of the proposed revision to the proposals, creditors were invited to establish a creditors' committee. Whilst a number of creditors have indicated their willingness to form a creditors' committee one has not yet been formed.

Joint Administrators' outlays

During the period covered by this report, Category 2 disbursements of £53 have been incurred. An analysis of the disbursements paid to date is attached at Appendix 4.

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

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

The Administrators remain of the opinion that a distribution to the non-preferential unsecured creditors will be made in due course, however, the quantum and timing will be 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 £ and we have commenced the adjudication of non-preferential unsecured claims.

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 General Data Protection Regulation 2016/679, 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 Administrator's appointment. The Office Holder Data Privacy Notice can be found at 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 May 2020 to 29 November 2020

Estimated to Realise per Directors' Statement of Affairs	Receipts	Cumulative to 29 May 2020 (£)	Transactions since 30 May 2020 (£)	Cumulative to 29 November 2020 (£)
800,000	Property	1,020,020	0	1,020,020
1,500,000)	IDV - Pre Appointment Debtor Receipts	1,933,710	0	1,933,710
)	IDV - Retentions	79,114	0	79,114
)	Pre Appointment Debtor Receipts	595,531	0	595,531
640,000	IDV - Work in Progress	348,583	0	348,583
640,000)	IDV - Plant & Equipment	565,796	0	565,796
)	Plant & Equipment/Motor Vehicles/Fixtures	223,398	0	223,398
	Rental Income - Fenwick	67,291	0	67,291
25,000	IDV - Stock	25,000	0	25,000
	Prepayments	21,752	0	21,752
	Bank Interest	4,153	405	4,558
615,500	Loans and Advances	32,038	25,000	57,038
	Petty Cash/Sundry Income	333	0	333
4,220,500		4,916,719	25,405	4,942,124
	Payments			
	Distribution to Floating Charge Holder	1,514,304	0	1,514,304
	Wage Arrears	36,625	0	36,625
	Gross Wages	55,085	0	55,085
	Rates & Utilities - Skypark	28,314	0	28,314
	Insurance	14,876	0	14,876
	Costs to be recharged - Fenwick	27,572	0	27,572
	Property Agents' Fees	28,650	0	28,650
	Legal Fees & Disbursements	85,240	16,503	101,743
	Agents' Fees - Debt Collection	37,487	0	37,487
	Agents' Disbursements	1,350	0	1,350
	Administrators' Fees	899,893	622,078	1,521,971
	Administrators' Expenses	8,277	1,509	9,786
	IDV - Debt Collection Commission	85,300	0	85,300
	Auctioneers' Commission & Other Costs	36,779	0	36,779
	Other Professional Fees	3,444	0	3,444
	Bank Charges & Interest	588	39	627
	Public Notices	694	0	694
	Corporation Tax	610	225	835
	IT Support	72	0	72
	Motor Expenses	382	0	382
	Postage	928	0	928
	Storage Charges	2,154	395	2,550
	Retention of Title Payments	1,775	0	1,775
	Distribution to Secured Creditor	640,000	0	640,000
	Distribution to Preferential Creditors	101,433	0	101,433
	Specific Bond	968	0	968
		3,612,801	640,749	4,253,550
				688,574
	Represented by:			
	BOS Current Account			148,561
	BOS Fixed Term Deposit Account			400,000
	RBS Current Account			24,262
	Construction Industry Scheme			26,752
	VAT			88,999
				688,574
	Notes			
	1. Receipts and payments are stated net of VAT.			

Appendix 3

Land Engineering (Scotland) Limited (In Administration)

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

(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 May 2020 to 29 November 2020

Classification of work function	Hours					Total Time Cost £	Average Hourly Rate £
	Partner	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours		
Accounting & Administration	4.5	14.0	7.4	32.9	58.8	23,879	406
Bank and Statutory Reporting	1.0	8.4	3.1	10.4	22.9	9,612	905
Creditors	0.0	3.9	1.5	0.2	5.6	3,244	579
Debtors	0.0	0.3	1.2	1.2	2.7	874	324
Legal Issues	5.0	6.4	1.3	0.0	12.7	9,004	709
Other Assets	0.0	26.4	2.8	2.0	31.2	19,205	616
Other Matters	0.0	0.0	1.1	0.0	1.1	424	385
Property	0.5	0.0	0.0	0.0	0.5	453	905
Statutory Duties	0.0	8.4	3.1	10.4	21.9	8,707	398
VAT & Taxation	0.0	6.0	8.3	6.3	20.6	8,263	401
Total hours	11.0	73.7	29.8	63.4	177.9	83,663	
Total time costs (£)	10,225	49,028	10,977	13,433		83,663	
Average hourly rate (£)	930	665	368	212			

Current charge out rates		1 July 2019	1 July 2020
		to 30 June 2020	to 30 June 2021
		£	£
Partner	Partner	900	1010
	Associate Partner	805	905
	Director	690	780
Manager	Assistant Director	610	680
	Senior Executive	475	520
	Executive	340-375	385
Other Senior Professionals	Assistant Executive	270	315
	Analyst	190-270	222-315
Assistants & Support Staff	Accounting and Treasury Executive	150-200	190-248

Category 1 Disbursements

No category 1 disbursements have been incurred in the period.

Category 2 Disbursements	£
Printing & postage	53.58
Total	53.58
Total disbursements	53.58

(c) Narrative explanation of time incurred

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

(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	16,503
Total			16,503

Land Engineering (Scotland) Limited (In Administration)

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

Type of Outlay	Paid as at 29 May 2020	Paid in period to 29 November 2020	Outstanding	Total
	£	£	£	£
Category 1 disbursements (see Note 1)				
Specific penalty bond	967.50	-	-	967.50
Ground transportation	1,364.37	88.00	103.93	1,556.30
Meals & subsistence	36.92	-	12.85	49.77
IT & office supplies	-	-	8.72	8.72
Category 2 disbursements (see Note 1)				
Mileage	53.65	-	-	53.65
Internal bulk copying, printing and postage	6,965.86	1,417.05	2,199.13	10,582.04
Meals & subsistence	99.60	3.90	-	103.50
Totals	9,487.90	1,508.95	2,324.63	13,321.48

Note 1

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

- Category 1 disbursements are payments to independent third parties where there is specific expenditure directly referable to the appointment
- Category 2 disbursements 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 disbursements but only to seek approval for Category 2 disbursements before they are drawn.