

# AM03

## Notice of administrator's proposals



Companies House

For further information, please  
refer to our guidance at  
[www.gov.uk/companieshouse](http://www.gov.uk/companieshouse)

### 1 Company details

Company number 1 0 6 2 2 2 8 1

Company name in full Avocet Faculties Limited

→ Filling in this form  
Please complete in typescript or in  
bold black capitals.

### 2 Administrator's name

Full forename(s) Kris Anthony

Surname Wigfield

### 3 Administrator's address

Building name/number 3rd Floor, Westfield House

Street 60 Charter Row

Post town Sheffield

County/Region

Postcode S 1 3 F Z

Country

### 4 Administrator's name ①

Full forename(s) Jason Stuart

Surname Ainge

① Other administrator  
Use this section to tell us about  
another administrator.

### 5 Administrator's address ①

Building name/number Fourth Floor

Street Toronto Square

Post town Toronto Street

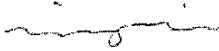
County/Region Leeds

Postcode L S 1 2 H J

Country

② Other administrator  
Use this section to tell us about  
another administrator.

AM03  
Notice of Administrator's Proposals

6		Statement of proposals	
	<input checked="" type="checkbox"/>	I attach a copy of the statement of proposals	
7		Sign and date	
Administrator's Signature	<div>Signature</div> <div>✕</div> <div>✕</div>		
Signature date	<div><sup>d</sup>0</div> <div><sup>d</sup>4</div> <div><sup>m</sup>1</div> <div><sup>m</sup>1</div> <div><sup>y</sup>2</div> <div><sup>y</sup>0</div> <div><sup>y</sup>2</div> <div><sup>y</sup>1</div>		

## AM03 Notice of Administrator's Proposals



### Presenter information

You do not have to give any contact information, but if you do it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name	Olivia Oates
Company name	Begbies Traynor (SY) LLP
Address	3rd Floor, Westfield House 60 Charter Row
Post town	Sheffield
County/Region	
Postcode	S 1 3 F Z
Country	
DX	
Telephone	0114 2755033



### Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

- ☐ The company name and number match the information held on the public Register.
- ☐ You have attached the required documents.
- ☐ You have signed and dated the form.



### Important information

All information on this form will appear on the public record.



### Where to send

You may return this form to any Companies House address, however for expediency we advise you to return it to the address below:

The Registrar of Companies, Companies House,  
Crown Way, Cardiff, Wales, CF14 3UZ.  
DX 33050 Cardiff.



### Further information

For further information please see the guidance notes on the website at [www.gov.uk/companieshouse](http://www.gov.uk/companieshouse) or email [enquiries@companieshouse.gov.uk](mailto:enquiries@companieshouse.gov.uk)

This form is available in an alternative format. Please visit the forms page on the website at [www.gov.uk/companieshouse](http://www.gov.uk/companieshouse)

The affairs, business and property of the Company are being managed by the joint administrators, who act as the Company's agents and without personal liability.

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## Avocet Faculties Limited (In Administration)

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Statement of proposals for achieving the purpose of administration pursuant to Paragraph 49 of Schedule B1 to the Insolvency Act 1986 and Rule 3.35 of the Insolvency (England and Wales) Rules 2016

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## Important Notice

This statement of proposals has been produced for the sole purpose of advising creditors pursuant to the provisions of the Insolvency Act 1986. The report is private and confidential and may not be relied upon, referred to, reproduced or quoted from, in whole or in part, by creditors for any purpose other than this report to them, or by any other person for any purpose whatsoever. Any estimated outcomes for creditors included in these proposals are illustrative only and cannot be relied upon as guidance as to the actual outcomes for creditors.

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# 1. INTERPRETATION

<u>Expression</u>	<u>Meaning</u>
"the Company"	Avocet Facilities Limited (In Administration)
"the administration"	The appointment of administrators under Schedule B1 of the Act on 10 September 2021
"the administrators", "we", "our", "us"	Kris Anthony Wigfield of Begbies Traynor (SY) LLP, 3rd Floor, Westfield House, 60 Charter Row, Sheffield, S1 3FZ and Jason Stuart Ainge of Begbies Traynor (Central) LLP, Fourth Floor, Toronto Square, Toronto Street, Leeds, LS1 2HJ
"the Act"	The Insolvency Act 1986 (as amended)
"the Rules"	The Insolvency (England and Wales) Rules 2016 (as amended)
"secured creditor" and "unsecured creditor"	Secured creditor, in relation to a company, means a creditor of the company who holds in respect of his debt a security over property of the company, and "unsecured creditor" is to be read accordingly (Section 248(1)(a) of the Act)
"security"	(i) In relation to England and Wales, any mortgage, charge, lien or other security (Section 248(1)(b)(i) of the Act); and  (ii) In relation to Scotland, any security (whether heritable or moveable), any floating charge and any right of lien or preference and any right of retention (other than a right of compensation or set off) (Section 248(1)(b)(ii) of the Act)
"preferential creditor"	Any creditor of the Company whose claim is preferential within Sections 386, 387 and Schedule 6 to the Act

## 1. STATUTORY INFORMATION

Name of Company	Avocet Faculties Limited	
Trading name(s):	N/A	
Date of Incorporation:	15 February 2017	
Company registered number:	10622281	
Company registered office:	3rd Floor, Westfield House, 60 Charter Row, Sheffield, S1 3FZ	
Former registered office:	25 Palace Street Berwick-upon-Tweed Northumberland TD15 1HN	
Trading address(es):	25 Palace Street, Berwick-Upon-Tweed, TD15 1HN	
Principal business activities:	Buying and selling of own real estate	
Directors and details of shares held in the Company (if any):	<b>Name</b>	<b>Shareholding</b>
	Dr James Robert Jennings	N/A
Company Secretary and details of the shares held in Company (if any):	<b>Name</b>	<b>Shareholding</b>
	Eirlys Lloyd Company Services Ltd	N/A
Auditors:	RFM Preston Ltd, 120-124, Towngate, Leyland, Lancashire, PR25 2LQ	
Share capital:	1 Ordinary Share at £1	
Shareholders:	Avocet Bio Solutions Plc	

## 2. DETAILS OF APPOINTMENT OF ADMINISTRATORS

Date of appointment:	10 September 2021
Date of resignation:	N/A
Court:	High Court of Justice Business and Property Courts in Leeds Insolvency and Companies List (ChD)
Court Case Number:	CR-2021-LDS-404
Person(s) making appointment / application:	Omega Infinite Plc (In Liquidation) of 3 <sup>rd</sup> Floor, Westfield House, 60 Charter Row, Sheffield, S1 3FZ, as holder of a qualifying floating charge in accordance with Paragraph 14 of Schedule B1 of the Act, acting by its Liquidators, Ashleigh William Fletcher and Joanne Louise Hammond.

Acts of the administrators:	The administrators act as officers of the court and as agents of the Company without personal liability. Any act required or authorised under any enactment to be done by an administrator may be done by any one or more persons holding the office of administrator from time to time.
Type of Proceedings:	The proceedings will be COMI proceedings, as defined by the Insolvency (England and Wales) Rules 2016 (as amended).

## STATUTORY PURPOSE OF ADMINISTRATION

Paragraph 3 of Schedule B1 to the Act provides as follows:

- "3 (1) The administrator of a company must perform his functions with the objective of-
- (a) rescuing the company as a going concern, or
  - (b) achieving a better result for the company's creditors as a whole than would be likely if the company were wound up (without first being in administration), or
  - (c) realising property in order to make a distribution to one or more secured or preferential creditors.
- (2) Subject to sub-paragraph (4), the administrator of a company must perform his functions in the interests of the company's creditors as a whole.
- (3) The administrator must perform his functions with the objective specified in sub-paragraph (1)(a) unless he thinks either-
- (a) that it is not reasonably practicable to achieve that objective, or
  - (b) that the objective specified in sub-paragraph (1)(b) would achieve a better result for the company's creditors as a whole.
- (4) The administrator may perform his functions with the objective specified in sub-paragraph (1)(c) only if-
- (a) he thinks that it is not reasonably practicable to achieve either of the objectives specified in sub-paragraph (1)(a) and (b), and
  - (b) he does not unnecessarily harm the interests of the creditors of the company as a whole."

## 3. CIRCUMSTANCES GIVING RISE TO OUR APPOINTMENT

The following background information is provided to assist creditors who may have limited knowledge of the Company and its affairs to better understand the reasons for the Company's insolvency.

As the director has not yet provided the Joint Administrators with details of the Company's history, the Joint Administrators have prepared the following background information based upon information illustrated at Companies House and provided by the Company's creditors.



### **Company Background**

The Company was incorporated on 15 February 2017 as Avocet Infinite Properties Limited and formally changed its name to Avocet Faculties Limited on 19 July 2017.

The Company's principal activities comprised of the buying and selling of own real estate including letting of own or leased real estate.

The Company owns investment properties situated at 1 & 2 Sunwick Farm Cottages, Berwick-Upon-Tweed, TD15 1XG. The Company also owns Port A Chaipull, located at Loch Lomond which consists of a narrow strip of loch side land and a redundant jetty.

### **Rationale for Administrators' Appointment**

The Company's main creditor is an associated company namely, Omega Infinite Plc ("Omega"), a company associated by common directors and shareholders.

On 27 March 2020, an order was made by the Court to wind up Omega and on 28 April 2020, Ashleigh William Fletcher and Joanne Louise Hammond, both of Begbies Traynor (SY) LLP were appointed as liquidators of Omega by the Secretary of State. Omega was granted several charges against the Company by way of fixed and floating charges against the Company's property and undertaking, including standard security charges over the investment properties and the jetty.

As Omega held a qualifying floating charge over the Company's property, the liquidators of Omega filed for the appointment of Kris Anthony Wigfield of Begbies Traynor (SY) LLP and Jason Stuart Ainge of Begbies Traynor (Central) LLP as Joint Administrators of the Company on 10 September 2021.

### **Prior involvement**

Jason Ainge of Begbies Traynor (Central) LLP has had no prior professional relationship with the Company but Ashleigh William Fletcher and Joanne Louise Hammond both of Begbies Traynor (SY) LLP are Joint Liquidators of the appointer, namely Omega. Kris Wigfield is the Managing Partner of Begbies Traynor (SY) LLP and as such has been made aware of the progress of the liquidation of Omega but has had no active involvement in the management of the liquidation.

Kris Wigfield also met with the director of Omega prior to its liquidation to provide advice on various options available. However, no instruction was given to Kris Wigfield and Omega entered compulsory liquidation shortly thereafter.

The Joint Administrators are satisfied that the existence of the above prior professional relationship does not create any conflict of interest or threat to independence and the Joint Administrators have ensured that sufficient safeguards have been put in place in respect of the same.

## **4. STATEMENT OF AFFAIRS**

The director has not yet prepared a statement of affairs of the Company as of 10 September 2021 nor provided the Joint Administrators with sufficient information to prepare an accurate one. Therefore, the Joint Administrators have had to rely on financial information detailed at Companies House, and information provided by the Company's creditors in order to prepare the Estimated Statement of Affairs which is attached at Appendix 2. It makes no provision for the costs of the administration or any subsequent liquidation. The Joint Administrators' comments on the statement of affairs are detailed at Appendix 2.

Upon receipt, the director's statement of affairs will be filed at Companies House and available for creditors to review.

## 5. THE ADMINISTRATION PERIOD

### ***Receipts and Payments***

Attached at Appendix 1 is the Joint Administrators account of receipts and payments from the commencement of administration, 10 September 2021 to 4 November 2021.

Cash in the sum of £15 was identified in the books and records located at the Company's registered office. This amount has been paid into the Administration bank account.

### ***Work undertaken by the Administrators and their staff***

Following their appointment, the Joint Administrators instructed Eddisons Commercial Limited ("Eddisons") (a company within the Begbies Traynor Group) to secure the Company's tangible assets, namely the properties located at 1&2 Sunwick Farm Cottages. Eddisons conducted an initial site visit to the investment properties in order to provide the Joint Administrators with a recommendation on the most appropriate disposal strategy. The Joint Administrators have spent time liaising with Eddisons in respect of the same.

Furthermore, the Joint Administrators instructed Eddisons Insurance Services Limited ("EIS") (a company within the Begbies Traynor Group) to provide insurance broking services, specifically for the investment properties to cover any insurance risks relating to the case.

In addition to services provided by EIS, Eddisons also provided risk management services via RemoteZone to ensure that the investment properties were secured in order to comply with insurance requirements.

The Joint Administrators have spent time liaising with the Company's secured creditor, Omega, in respect of their indebtedness and in respect of further information relating to the Company that will assist with administering the administration and reviewing Omega's security.

Upon the Joint Administrators' appointment, they were made aware of an ongoing tribunal claim against the Company by one of its former employees. In order to assist the employee with claiming their statutory entitlement, the Joint Administrators obtained a CN reference number from the Redundancy Payments Office ("RPO") and have spent time submitting the relevant RP14 & RP14a forms to the RPO to ensure that the employee claim is dealt with in a timely manner.

The Joint Administrators have spent time writing to the Company's directors in respect of the notice to submit a statement of affairs for the Company. Further time has been spent liaising with the Company's directors in respect of their appointment.

## 6. ESTIMATED OUTCOME FOR CREDITORS

The sums owed to creditors at the date of appointment (as detailed in the Joint Administrators' estimated statement of affairs) are as follows:

### **Secured creditor**

#### **Omega Infinite Plc – In Liquidation ("Omega")**

Omega holds a number of registered charges against the Company's property and undertaking as detailed below:

1. Debenture containing a fixed and floating charge, created on 01 January 2021 and delivered on 08 January 2021, against the Company's property and undertaking;

2. Standard security containing a fixed charge over Port A Chaipull, Loch Lomond, created on 06 January 2021 and delivered on 23 April 2021; and
3. Standard security containing a fixed charge over 1&2 Sunwick Farm Cottages, Berwick-Upon-Tweed, TD15 1XG, created on 06 January 2021 and delivered on 03 July 2021.

Upon the Joint Administrators' appointment, Omega were owed £807,563.

#### **Preferential creditors**

Preferential claims of employees for arrears of wages, salary and holiday pay were estimated at £1,565.

#### **Secondary preferential creditors**

Further to the changes to the Finance Act 2020, HM Revenue & Customs ("HMRC") are now able to claim secondary preferential status for certain liabilities. Taxes owed by the business to HMRC comprising of VAT, PAYE Income Tax, Employee National Insurance Contributions, Student loan deductions and Construction Industry Scheme deductions fall under the secondary preferential status.

HMRC have a secondary preferential claim in the sum of £21,860.28 which relates to outstanding PAYE for the periods 06/04/2018 to 05/04/2019 and 06/04/2019 to 05/07/2019.

#### **Unsecured creditors**

Claims of unsecured creditors are estimated at £111,745.11.

On the basis of realisations to date and estimated future realisations the Joint Administrators estimate an outcome for each class of the Company's creditor as follows:

#### **Secured creditor**

As there is no other registered security, realisations from the Company's properties would be available under Omega's registered charges. At this stage, in order that potential realisations are not prejudiced, we do not ascribe a realisable value to the properties, although a shortfall to Omega's indebtedness is anticipated.

The Administrators have however been provided with certain information which requires consideration in relation to the validity of Omega's charges, prior to any distribution being made.

#### **Preferential creditors**

On the basis that Omega's security was validly executed, there would not be a surplus for preferential creditors due to the anticipated shortfall under Omega's fixed charge. However, if it is the case that Omega's security is not valid, then the Joint Administrators consider that there are likely to be sufficient funds for a dividend to be paid to preferential creditors in full.

#### **Secondary preferential creditors**

As stated above, on the basis that Omega's security was validly executed, it is anticipated that secondary preferential creditors would not receive a dividend. However, if it is the case that Omega's security is not valid and preferential creditors are paid in full, then the Joint Administrators consider there are likely to be sufficient funds for a dividend to be paid to secondary preferential creditors in full.

#### **Prescribed Part for unsecured creditors pursuant to Section 176A of the Act**

Section 176A of the Act provides that, where the company has created a floating charge on or after 15 September 2003, the administrator must make a *prescribed part* of the Company's *net property* available for the unsecured creditors and not distribute it to the floating charge holder except in so far as it exceeds the amount required for the satisfaction of unsecured debts.

*Net property* means the amount which would, were it not for this provision, be available to floating charge holders out of floating charge assets (i.e. after accounting for preferential debts and the costs of realising the floating charge assets).

The floating charge holder may not participate in the distribution of the prescribed part of the Company's net property. The *prescribed part of the Company's net property* is calculated by reference to a sliding scale as follows:

- ❑ 50% of the first £10,000 of *net property*;
- ❑ 20% of *net property* thereafter;
- ❑ Up to a maximum amount to be made available of £800,000

An administrator will not be required to set aside the *prescribed part of net property* if:

- ❑ the *net property* is less than £10,000 and the administrator thinks that the cost of distributing the *prescribed part* would be disproportionate to the benefit; (Section 176A(3)) or
- ❑ the administrator applies to the court for an order on the grounds that the cost of distributing the *prescribed part* would be disproportionate to the benefit and the court orders that the provision shall not apply (Section 176A(5)).

On the basis that Omega's security was validly executed, the net property will be nil and therefore, the provisions of Section 176A of the Act shall not apply as no prescribed part of net property will be available for distribution to the unsecured creditors.

This position is subject to ongoing investigations being carried out by the Administrators which may give rise to other realisations in the Administration and creditors will be updated as the Administration progresses.

On present information the Joint Administrators do not intend to make an application to court for an order not to distribute the prescribed part of net property to the unsecured creditors. However, the Joint Administrators reserve their position generally in this regard should circumstances materially change.

#### **Unsecured creditors**

On the basis that Omega's security was validly executed, there would be no surplus available for unsecured creditors. However, if it is the case that Omega's security is not valid, then the Joint Administrators consider that there would be a surplus available for distribution to unsecured creditors.

#### **Effect of administration on limitation periods under the Limitation Act 1980**

As explained in their initial correspondence confirming their appointment as administrators, the Limitation Act 1980 continues to apply to all debts due from the Company. Case law indicates that where a company is in administration, time does not stop running for limitation purposes pursuant to the Limitation Act 1980. If you have any concerns in relation to your claim against the Company becoming time-barred during the course of the administration, we strongly recommend that you seek independent legal advice on the options available to you to prevent this.

## **7. OUR PROPOSALS FOR ACHIEVING THE PURPOSE OF THE ADMINISTRATION**

#### ***Purpose of the Administration***

The Joint Administrators are required to set out their proposals for achieving the purpose of the administration which in this context means one of the objectives specified in paragraph 3 of Schedule B1 to the Act as set out at section 3 of this report above.

The Joint Administrators presently consider that it is not reasonably practicable to achieve either of the objectives specified in sub-paragraph 3(1)(a) and 3(1)(b), and consequently the most appropriate objective to pursue in this case is that specified in sub-paragraph 3(1)(c), namely realising property in order to make a distribution to one or more secured or preferential creditors. The Joint Administrators consider that pursuing this objective should not unnecessarily harm the interests of the creditors of the Company as a whole.

### **Details of proposals**

The Joint Administrators believe that pursuing the objective as specified in sub-paragraph 3(1)(c) will be achieved during the course of the administration as it is anticipated that realisations of the Company's property will enable distributions to the secured and/ or preferential creditors.

The work undertaken to date has ensured that the assets are secured in preparation for the properties to be marketed and sold as soon as practically possible which will further the achievement of the objective.

In order that the purpose of the administration may be fully achieved, the Joint Administrators will remain in office as administrators in order to conclude the sale of the Company's assets. This work is necessary to achieve the purpose of the administration and it is anticipated to result (either directly or indirectly) in a financial benefit to creditors. The purpose of this work is to maximise realisations from the Company's assets, leading to an increase in the net property of the administration estate.

The Joint Administrators' costs will be funded from the realisations in the administration. However, there will be certain items of additional work that are of no direct financial benefit to creditors but which they are required to carry out in accordance with statutory requirements under the Act, regulatory compliance and tax compliance and legislation. These include:

- Preparing these Proposals to creditors for their approval;
- Carrying out a review of the Company records and any concerns received in readiness for the completion of the report on the directors' conduct to be submitted to the Insolvency Service;
- Maintaining their case files and carrying out regular compliance reviews of the case, together with progress reviews, in order to ensure that any statutory requirements are being complied with and that the case is being efficiently and effectively progressed;
- Preparing a progress report from commencement up to the six-month anniversary of the administration to report on progress to creditors, together with details of the costs and expenses incurred during the period of account; and
- Once the Joint Administrators are satisfied that all outstanding matters have been dealt with in the administration, they will issue their final report to creditors on the progress of the administration prior to moving the Company into creditors voluntary liquidation. Alternatively, if necessary they may seek an extension of the administration and issue a further progress report to creditors.

### ***Exit from Administration***

On present information the Joint Administrators believe that the most appropriate exit route from administration is for the Company to move from administration into liquidation.

Should the Joint Administrators anticipate there will be a dividend to unsecured creditors, then the most appropriate exit route would for the Company to move from administration into creditors' voluntary liquidation in accordance with Paragraph 83 Schedule B1 of the Act.

The Joint Administrators have the power to make a distribution of the prescribed part to unsecured creditors in the administration but any other distribution to them requires the permission of court. It is considered that the court will only grant such permission in exceptional circumstances where the normal course for making distributions to unsecured creditors in a voluntary liquidation is inappropriate. Additionally, there may be matters for enquiry concerning a company's affairs which are not within the scope of an administrator's powers and which can only be properly dealt with by a liquidator.

Consequently, as soon as the Joint Administrators are satisfied that there will be a distribution to unsecured creditors, they have fully discharged their duties as administrators and that the purpose of the administration has been fully achieved, they propose to deliver a notice of moving from administration creditors' voluntary liquidation to the Registrar of Companies. Upon the registration of such notice their appointment as administrators shall cease to have effect and the Company will automatically be placed into liquidation. Paragraph 83(7) provides:

The liquidators for the purpose of the winding up shall be-

- (a) a person nominated by the creditors of the company in the prescribed manner and within the prescribed period, or
- (a) if no person is nominated under paragraph (a), the administrator.

The Joint Administrators confirm that as part of their proposals they propose that they, or in the event of there being a subsequent change of persons appointed as administrator, the individuals in office as such immediately prior to the Company being placed into liquidation, do act as joint liquidators in the subsequent winding up of the Company. Creditors may nominate a different person as the proposed liquidator provided that the nomination is made after the receipt of the proposals and before the proposals are approved. The appointment of a person nominated as liquidator takes effect by the creditors' approval, with or without modification, of our proposals.

It is proposed that for the purpose of the winding up, any act required or authorised under any enactment to be done by the joint liquidators is to be done by all or any one or more of the persons for the time being holding office.

Alternatively, in the event that the Joint Administrators do not believe that there will be a distribution to unsecured creditors, they propose to issue a winding-up petition to place the Company into Compulsory Liquidation. The Joint Administrators confirm that they intend to seek the appointment as Joint Liquidators in the subsequent Compulsory Liquidation.

However, in the event that the Joint Administrators determine that special circumstances apply in this matter and it would therefore be more cost effective to the Company's creditors to make an application to court to facilitate a distribution of funds within the administration they will do so. This would only incur circumstances where the Joint Administrators consider that there are no matters for a liquidator to investigate which fall outside of the scope of the Administrators' powers.

However, it may transpire that it is not possible to finalise the administration as envisaged within one year of the date of the Joint Administrators' appointment. In particular, this situation will arise if they are not able to conclude the sale of the properties. The appointment of an administrator shall cease to have effect at the end of the period of one year beginning with the date on which it takes effect. However, the Joint Administrators term of office may be extended either by court order for a specified period or by consent of the creditors for a specified period not exceeding twelve months. It may therefore become necessary at some future time for them to seek creditor consent to extending the period of the administration for up to a further twelve months following the anniversary of their appointment in order to ensure that the objective of the administration can be fully achieved.

## 8. PRE-ADMINISTRATION COSTS

In the period before the Company entered administration, the Joint Administrators carried out work consisting of the following ("the Work"):

- Reviewing the Company's financial position;
- Liaising with the secured creditor with regards to the appointment of administrators and the strategy with regards to the administration and the realisation of the Company's assets;
- Liaising with Irwin Mitchell LLP ("IM") in relation to the proposed administration; and
- Reviewing the Company's assets, in line with Eddisons, in order to devise a strategy for the administration.

The Work was carried out pursuant to an agreement made between the Joint Administrators and the secured creditor ("the Agreement"). The Agreement provides for the payment of the Joint Administrators fees and the discharge of expenses incurred by them (collectively referred to as "the pre-administration costs") in carrying out the Work.

The Work was carried out before the Company entered administration in order to ensure the Administrators were in a position to secure the assets upon appointment. For these reasons the Joint Administrators consider that the Work has furthered the achievement of the objective of administration being pursued, namely realising property in order to make a distribution to one or more secured or preferential creditors.

The pre-administration costs are broken down as follows:

Description	Name of recipient	Net amount £	VAT £	Gross amount £
Our fees in relation to the Work	Begbies Traynor	3,307.50	661.50	3,969.00
Legal costs	Irwin Mitchell LLP	9,080.00	1,816.00	10,896.00
Legal disbursements	Irwin Mitchell LLP	11.50	2.30	13.80
Agents costs	Eddisons Commercial Limited	3,000.00	600.00	3,600.00
Agents disbursements	Eddisons Commercial Limited	320.00	64.00	384.00
<b>TOTAL PRE- ADMINISTRATION COSTS</b>		<b>15,719.00</b>	<b>3,143.80</b>	<b>18,862.80</b>

The pre-administration costs are unpaid, and the Joint Administrators are seeking that they be paid as an expense of the administration. Approval to discharge such costs ("the unpaid pre-administration costs") as an expense is required from the creditors' committee, or in the absence of a committee, or if the committee does not make a determination, by seeking decisions of the creditors. Payment of the unpaid pre-administration costs requires separate approval and is not part of our proposals subject to approval.

In order to provide sufficient information to consider approval of the payment of the unpaid pre-administration costs, a document detailing the work carried out, the associated costs and the proposed remuneration is provided together with a pre-administration Time Costs Summary at Appendix 3. These show the number of hours spent by each grade of staff involved in the case and give the average hourly rate charged.

#### **Irwin Mitchell LLP ("IM")**

IM were chosen to advise on legal matters in general and to provide advice relating to the appointment. IM were instructed due to their extensive experience in dealing with insolvency matters.

A brief summary of the pre-appointment work undertaken by IM is provided below:

- Discussions with the Joint Administrators and reviewing Company information ahead of the appointment;
- Advising the Joint Administrators in relation to the charges registered against the Company;
- Drafting various emails to the Joint Administrators in relation to advice surrounding the appointment; and
- Reviewing the NOA and ancillary documents required to appoint the administrators.

#### **Eddisons Commercial Limited**

Eddisons were instructed to provide valuation and disposal advice in respect of the two investment properties and the land at Loch Lomond. Eddisons were instructed due to their expertise and knowledge in valuing and disposing of properties in an insolvency scenario.

A brief summary of the pre-appointment work undertaken by Eddisons is provided below:

- Site visits to the two investment properties at Sunwick Farm and the land at Loch Locmond; and
- Valuation report in respect of the above properties and land.

## 9. REMUNERATION AND EXPENSES

### ***Remuneration***

The Joint Administrators have not at this time drawn any funds on account of their remuneration, nor on account of certain expenses as approval has not previously been sought. Best practice guidance provides that payments to an office holder should be fair and reasonable and reflect the work that has been, and will be, properly carried out. The following proposal represents what the Joint Administrators believe is a fair and reasonable fee basis, based on the work which has been carried out to date and the work which is yet to be undertaken.

The Joint Administrators propose that the basis of their remuneration be fixed as a percentage of the value of the assets which are realised and, in addition, as a percentage of realisations from investigations.

It is for the creditors' committee to approve the basis of our remuneration under Rule 18.18 of the Rules, but if no such committee is appointed it will be for the creditors to determine. We intend to deal with this by seeking decisions of creditors via correspondence

Details of how the Administrators are proposing to be remunerated together with details of the work that the Administrators consider that they will need to undertake to administer the administration are set out at Appendix 3.

### ***Expenses***

The Joint Administrators propose that expenses for services provided by their firm and/or entities within the Begbies Traynor group, be charged in accordance with their firm's policy, details of which are set out at Appendix 3. These expenses will be identified by the Joint Administrators and will be payable subject to the approval of those responsible for determining the basis of their remuneration.

### ***Estimate of expenses***

The Joint Administrators are required by the Rules to provide creditors with details of the expenses that they consider will be, or are likely to be, incurred in the course of the administration. This information also appears at Appendix 3.

## 10. OTHER INFORMATION TO ASSIST CREDITORS

### ***Report on the conduct of directors***

The Joint Administrators have a statutory duty to investigate the conduct of the directors and any person they consider to be or have been a shadow or de facto director during the period of three years before the date of their appointment, in relation to their management of the affairs of the Company and the causes of its failure. The Joint Administrators are obliged to submit confidential reports to the Department for Business, Energy and Industrial Strategy.

As administrators of the Company, they are required by best practice guidance to make enquiries of creditors as to whether they wish to raise any concerns regarding the way in which the Company's business was conducted prior to the commencement of the administration or wish to bring to their attention any potential recoveries for the estate. If you would like to bring any such issues to the Joint Administrators attention please do so in writing to the address detailed at Section 1 of this report.



This request for information is standard practice and does not imply any criticism or cause of action against any person concerned in the management of the Company's affairs.

#### **Investigations carried out to date**

The Joint Administrators have undertaken an initial assessment of possible actions in relation to the manner in which the business was conducted prior to the administration of the Company and potential recoveries for the estate in this respect.

#### **Connected party transactions**

The Joint Administrators have not been made aware of any sales of the Company's assets to connected parties.

#### **Deemed delivery**

These proposals will be deemed to have been delivered on 8 November 2021.

#### **Use of personal information**

Please note that in the course of discharging our statutory duties as Joint Administrators, we may need to access and use personal data, being information from which a living person can be identified. Where this is necessary, we are required to comply with data protection legislation. If you are an individual and you would like further information about your rights in relation to our use of your personal data, you can access the same at <https://www.begbies-traynorgroup.com/privacy-notice>. If you require a hard copy of the information, please do not hesitate to contact us.

#### **Right to request further information**

Pursuant to Rule 18.9 of the Rules, within 21 days of the receipt of this report a secured creditor, or an unsecured creditor with the concurrence of at least 5% in value of the unsecured creditors, including that creditor, (or an unsecured creditor with less than 5% in value of the unsecured creditors, but with the permission of the court) may request in writing that we provide further information about our remuneration or expenses which have been incurred during the period of this progress report.

#### **Right to make an application to court**

Pursuant to Rule 18.34 of the Rules, any secured creditor or any unsecured creditor with the concurrence of at least 10% in value of the unsecured creditors including that creditor, (or any unsecured creditors with less than 10% in value of the unsecured creditors, but with the permission of the court) may, within 8 weeks of receipt of this progress report, make an application to court on the grounds that the remuneration charged or the expenses incurred during the period of this progress report are excessive or, the basis fixed for our remuneration is inappropriate.

## **11. CONCLUSION**

As the Joint Administrators are yet to determine the validity of Omega's security, they are therefore seeking a decision from the Company's creditors as to whether they approve their proposals. This decision will be sought via the deemed consent procedure and a notice of the decision sought is accompanying this document.

Unless 10% in value of the Company's creditors object to the approval of the Joint Administrators proposals via the deemed consent procedure, then the creditors will be treated as having made the proposed decision to approve their proposals.

Subject to the approval of their proposals the Joint Administrators will report on progress again approximately six months after the commencement of the administration, or at the conclusion of the administration, whichever is the sooner.



**Kris Anthony Wigfield**  
Joint Administrator

Date: 4 November 2021

# **ACCOUNT OF RECEIPTS AND PAYMENTS**

**10 September 2021 to 4 November 2021**

**Avocet Faculties Limited**  
**(In Administration)**  
**Joint Administrators' Summary of Receipts & Payments**  
**To 04/11/2021**

S of A £		£	£
	<b>SECURED ASSETS</b>		
Uncertain	Freehold Land & Property	NIL	NIL
	<b>SECURED CREDITORS</b>		
(807,563.00)	Omega Infinite Plc - In Liquidation	NIL	NIL
	<b>ASSET REALISATIONS</b>		
	Cash in hand	15.00	15.00
	<b>PREFERENTIAL CREDITORS</b>		
(1,564.93)	Employee re Arrears	NIL	NIL
	<b>SECONDARY PREFERENTIAL CREDITORS</b>		
(21,860.28)	HMRC (PAYE)	NIL	NIL
	<b>UNSECURED CREDITORS</b>		
(88,864.00)	Trade Creditor	NIL	
(9,878.72)	Employee	NIL	
(11,557.39)	HMRC (PAYE)	NIL	
(1,445.00)	HMRC (CT)	NIL	
			NIL
	<b>DISTRIBUTIONS</b>		
(1.00)	Ordinary Shareholders	NIL	NIL
<b>(942,734.32)</b>			<b>15.00</b>
	<b>REPRESENTED BY</b>		
	Bank 1 Current		15.00
			<b>15.00</b>

Note:

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**JOINT ADMINISTRATORS' ESTIMATED  
STATEMENT OF AFFAIRS AS AT 10 SEPTEMBER  
2021**

Insolvency Act 1986

Avocet Faculties Limited  
Company Registered Number: 10622281

Estimated Statement Of Affairs as at 10 September 2021

	Book Value £	Estimated to Realise £	£
<b>ASSETS</b>			
Freehold Land & Property	Uncertain	Uncertain	
Omega Infinite Plc - In Liquidation		(807,563.00)	
Deficiency c/d		<u>(807,563.00)</u>	
			<u>NIL</u>
<b>LIABILITIES</b>			
<b>PREFERENTIAL CREDITORS:-</b>			
Employee re Arrears (Count=1)		1,564.93	
			<u>1,564.93</u>
			<u>(1,564.93)</u>
<b>2nd PREFERENTIAL CREDITORS:-</b>			
HMRC (PAYE)		21,860.28	
			<u>21,860.28</u>
			<u>(23,425.21)</u>
<b>DEBTS SECURED BY FLOATING CHARGES PRE 15 SEPTEMBER 2003</b>			
<b>OTHER PRE 15 SEPTEMBER 2003 FLOATING CHARGE CREDITORS</b>			
			<u>NIL</u>
			<u>(23,425.21)</u>
<b>Estimated prescribed part of net property where applicable (to carry forward)</b>			
			<u>NIL</u>
			<u>(23,425.21)</u>
<b>DEBTS SECURED BY FLOATING CHARGES POST 14 SEPTEMBER 2003</b>			
Deficiency b/d		807,563.00	
			<u>807,563.00</u>
			<u>(830,988.21)</u>
<b>Estimated prescribed part of net property where applicable (brought down)</b>			
			<u>NIL</u>
			<u>NIL</u>
<b>Shortfall to preferential creditors/F.C's pre 15 September 2003 (brought down)</b>			<b>23,425.21</b>
<b>Unsecured non-preferential claims (excluding any shortfall to floating charge holders)</b>			
Trade Creditor (Count=1)		88,864.00	
Employee (Count=1)		9,878.72	
HMRC (PAYE)		11,557.39	
HMRC (CT)		<u>1,445.00</u>	
			<b>111,745.11</b>

Insolvency Act 1986

Avocet Faculties Limited  
Company Registered Number: 10622281

Estimated Statement Of Affairs as at 10 September 2021

	Book Value £	Estimated to Realise £
Estimated deficiency/surplus as regards non-preferential creditors (excluding any shortfall in respect of F.C's post 14 September 2003)		(135,170.32)
Shortfall in respect of F.C's post 14 September 2003 (brought down)		<u>807,563.00</u> (942,733.32)
Issued and called up capital Ordinary Shareholders		1.00
<b>TOTAL SURPLUS/(DEFICIENCY)</b>		<u>1.00</u> <u>(942,734.32)</u>

**Begbies Traynor (SY) LLP**  
**Avocet Faculties Limited**  
**Company Registered Number: 10622281**  
**B - Company Creditors**

Key	Name	Address	£
CH00	HM Revenue & Customs (PAYE)	Debt Management, EIS-C, BX9 1SH	33,417.67
CH01	HM Revenue & Customs (VAT)	Debt Management, EIS-C, BX9 1SH	1,445.00
CO00	Omega Infinite Plc - In Liquidation	C/O Begbies Traynor (SY) LLP, 3rd Floor, Westfield House, 60 Charter Row, Sheffield, S1 3FZ	807,563.00
CO01	Orrdone Farms Limited	C/o Dodd And Co , Fifteen Montgomery Way, Rosehill, Carlisle, Cumbria, CA1 2RW	88,864.00
<b>4 Entries Totalling</b>			<b>931,289.67</b>

Signature \_\_\_\_\_



**Begbies Traynor (SY) LLP**  
**Avocet Faculties Limited**  
**B1 - Company Creditors - Employees & Directors**

Key	Name	Address	Pref £	Unsec £	Total £
ES00	Miss Sarah Sholton	C/O Begbies Traynor (SY) LLP , 3rd Floor, Westfield House, 60 Charter Row, Sheffield, S1 3FZ	1,564.93	9,878.72	11,443.65
1 Entries Totalling			1,564.93	9,878.72	11,443.65

Signature \_\_\_\_\_

**Begbies Traynor (SY) LLP**  
**Avocet Faculties Limited**  
**Company Registered Number: 10622281**  
**B2 - Company Creditors - Consumer Creditors**

Key	Name	Address	£
0 Entries Totalling			0.00

Signature \_\_\_\_\_

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# JOINT ADMINISTRATORS' ESTIMATED STATEMENT OF AFFAIRS

## Notes to the Joint Administrators' Estimated Statement of Affairs.

1. The Company's properties situated at 1&2 Sunwick Farm Cottages, Berwick-Upon-Tweed, TD15 1XG and the jetty located at Loch Lomond, namely Port A Chaipull are subject to fixed charges granted in favour of Omega Infinite Plc (In Liquidation). The type of security held over these assets is standard security.

Omega are owed the sum of £807,563.00.

2. Eddisons Commercial Limited have been instructed to market and sell the above-named properties and jetty.
3. In accordance with Rule 3.35 (7) of the Rules, an administrator may exclude from an estimate under paragraph (6)(a) information where the disclosure of which could seriously prejudice the commercial interests of the Company. In this case, the Joint Administrators believe that it is in the best interests of the Company's creditors to withhold any values on the above-named properties and jetty. Please note that the Joint Administrators will disclose full details within future progress reports when a sale has completed.
4. The claims of the Department for Business, Energy and Industrial Strategy represent employees' estimated claims under The Employment Rights Act 1996 in respect of arrears of pay to a maximum of £800 per employee and holiday pay which are claimed preferentially, and pay in lieu of notice, redundancy pay and arrears of pay in excess of £800 which are non-preferential.

There is a preferential claim due to a former employee in the sum of £1,564.93 in respect of arrears of wages and holiday pay.

5. Further to the changes to the Finance Act 2020, HM Revenue & Customs ("HMRC") are now able to claim secondary preferential status for certain liabilities. Taxes owed by the business to HMRC comprising of VAT, PAYE Income Tax, Employee National Insurance Contributions, Student loan deductions and Construction Industry Scheme deductions fall under the secondary preferential status.

HMRC have a secondary preferential claim in the sum of £21,860.28 which relates to outstanding PAYE for the periods 06/04/2018 to 05/04/2019 and 06/04/2019 to 05/07/2019.

6. Section 176A(2) of the Act requires the administrators to set aside the prescribed part of the Company's net property for the satisfaction of unsecured debts. "**Net property**" means the amount which would, if it were not for this provision, be available to floating charge holders (i.e. after accounting for preferential debts and the costs of realisation). The **prescribed part** is 50% of the first £10,000 and 20% of the remaining net property (up to a maximum of £600,000).

We will not be required to set aside the prescribed part of net property if:

- a. The net property is less than £10,000 and we think that the cost of distributing the prescribed part would be disproportionate to the benefit;

- b. Or if the net property is more than £10,000, if the provision is disapplied by the court on the application of the administrator on cost-benefit grounds.
7. There is an unsecured claim due to Orrdone Farms Limited (In Administration) in the sum of £88,864.00.
  8. The former employee also has an unsecured claim in the administration in the sum of £9,878.72.
  9. HMRC have a claim in respect of PAYE for the periods 06/04/2019 to 05/07/2019 and 06/04/2018 to 05/04/2019 including accrued interest and is claimed in the non-preferential period.
  10. Creditors' claims are subject to agreement and will not be prejudiced by omission from the Statement of Affairs or by inclusion in a different amount from that claimed.
  11. The estimated total deficiency, including the calculation of the prescribed part of the Company's net property, is subject to the costs of administration and distribution for which no provision is made in the statement of affairs.

## REMUNERATION AND EXPENSES

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To assist creditors in determining this matter, the following further information appears in this appendix:

- Begbies Traynor (SY) LLP's charging policy;
- Pre-administration work, costs and proposed remuneration with Pre-Administration Time Costs Analysis is attached;
- Details of how the Administrators are proposing to be remunerated; and
- Details of the expenses that the Administrators consider will be, or are likely to be, incurred.

In addition, a copy of 'A Creditors Guide to Administrators' Fees (E&W) 2021' which provides guidance on creditors' rights can be obtained online at [www.begbies-traynor.com/creditorsguides](http://www.begbies-traynor.com/creditorsguides). Alternatively, if you require a hard copy of the Guide, please contact my office and I will arrange to send you a copy.

Finally, the Association of Business Recovery Professionals (R3) has set up a website that contains a step-by-step guide designed to help creditors navigate their way through an insolvency process which includes information in relation to remuneration. You can access the website at the following address: <http://www.creditorinsolvencyguide.co.uk/>

## **BEGBIES TRAYNOR CHARGING POLICY**

### **INTRODUCTION**

This policy applies where a licensed insolvency practitioner in the firm is acting as an office holder of an insolvent estate and seeks creditor approval to draw remuneration on either of the bases allowed under The Insolvency Act England & Wales Rules 2016. These are either:

- As a percentage of the value of the assets realised and/or distributed
- On a time costs basis or
- As a set amount.

In this case we are seeking to be remunerated on a percentage basis. Different rates can be used for individual assets or types of assets. Where we would like to realise assets on variable bases we will provide further information explaining why we think that this is appropriate and ask creditors to approve the variables.

Within our fee estimate creditors can see how we propose to be remunerated.

In addition, this policy applies where creditor approval is sought to make a separate charge by way of expenses or disbursements to recover the cost of facilities provided by the firm. It also applies where payments are to be made to parties other than the firm, but in relation to which the office holder, the firm or any associate has an interest. Best practice guidance\* indicates that such charges should be disclosed to those who are responsible for approving the basis of the office holder's remuneration, together with an explanation of how those charges are calculated.

### **EXPENSES INCURRED BY OFFICE HOLDERS IN RESPECT OF THE ADMINISTRATION OF INSOLVENT ESTATES**

Expenses are payments from the estate which are neither an office holder's remuneration nor a distribution to a creditor or a member. Expenses also include disbursements, which are expenses that are initially paid by the office holder's own firm, but which are subsequently reimbursed from the estate when funds are available.

Best practice guidance classifies expenses into two broad categories:

- ❑ *Category 1 expenses (approval not required)* - Specific expenditure that is directly related to the case and referable to an independent external supplier's invoice. All such items are charged to the case as they are incurred.
- ❑ *Category 2 expenses (approval required)* - Items of expenditure that are directly related to the case and either:
  - (i) include an element of shared or allocated cost and are based on a reasonable method of calculation, but which are not payable to an independent third party; or
  - (ii) are items of expenditure which are payable to an associate of the office holder and/or their firm.

#### **Shared or allocated costs (pursuant to (i) above)**

The following expenses include an element of shared or allocated cost and are charged to the case (subject to approval).

- ❑ Internal meeting room usage for the purpose of physical meetings of creditors is charged at the rate of £100 (London £150) per meeting; and

\* Statement of Insolvency Practice 9, (SIP9) – Payments to Insolvency office holders and their associates from an estate

- ❑ Car mileage which is charged at the rate of 45 pence per mile.

Payments anticipated to be made to associates (pursuant to (ii) above)

***Services provided by other entities within the Begbies Traynor group***

The following expenses which relate to services provided by entities within the Begbies Traynor group, of which the office holder's firm is a member, are also to be charged to the case (subject to approval):

Instruction of Eddisons Commercial Limited to provide valuation and asset disposal advice. Their charges will be equivalent to 2% of realisations.

Eddisons Commercial Limited trading as RemoteZone are also instructed to provide risk management services, in particular the management of insurance compliance works for vacant properties.

In addition to the services detailed above, it may become necessary to instruct Eddisons Commercial Limited to provide additional services, not currently anticipated, during the course of the case. In such circumstances and to avoid the costs associated with seeking further approval, the charges for such services will be calculated on a time costs basis at the prevailing hourly rates for their various grades of staff which are currently as follows:

<b>Grade of staff</b>	<b>Charge-out rate (£ per hour)</b>
Director	£275
Associate	£180
Surveyor	£120
Graduate	£100
Administration	£80
Porters	£35

Instruction of Eddisons Insurance Services Limited ("EIS") to provide insurance broking services for the insurable risks relating to the case. The cost of this insurance is forecasted to cost £275 per month. Where relevant, administration fees may be charged. These costs are taken into consideration and included within the forecasted cost of insurance, above.

In accordance with standard insurance industry practice, EIS will receive payment of commission for the services it provides from the insurer. The commission is calculated as a percentage of the insurance premiums payable and such percentage will depend upon the class or classes of assets being insured.

EIS will invoice the insolvent estate for the premium(s) due on the insurer's behalf and receive payment from the estate. EIS will in turn, account to the insurer for the premium(s) payable after deducting any commission payable by the insurer.

Where EIS have initially been consulted on a policy, but the policy has not been taken out, EIS will charge an administration fee of £150.

**Additional payments received by Eddisons Commercial Limited from purchasers where assets are disposed of by way of auction**

In addition to the charges of Eddisons Commercial Limited detailed above for providing the services to the office holder, where any machinery and business assets (other than freehold/leasehold property) are disposed of by way of auction, Eddisons Commercial Limited will also receive a payment from the purchaser, known as a buyer's premium, equivalent to 15% of

\* Statement of Insolvency Practice 9, (SIP9) – Payments to Insolvency office holders and their associates from an estate

the successful bid. Where any freehold/leasehold property is disposed of by way of auction, Eddisons Commercial Limited will also receive a payment from the purchaser, known as a buyer's administration fee, in the sum of £600. It is standard auction industry practice for a buyer's premium and buyer's administration fee to be charged. The buyer's premium and buyer's administration fee is paid by the purchaser of the assets and is not paid by the office holder from the assets of the estate.

General Office Overheads.

The following items of expenditure will normally be treated as general office overheads and will not be charged to the case although a charge may be made where the precise cost to the case can be determined because the item satisfies the test of a *Category 1 expense*:

- ☐ Telephone and facsimile
- ☐ Printing and photocopying
- ☐ Stationery

\* Statement of Insolvency Practice 9, (SIP9) – Payments to Insolvency office holders and their associates from an estate



## DETAILS OF THE WORK CARRIED OUT PRE ADMINISTRATION, THE ASSOCIATED COSTS AND THE PROPOSED REMUNERATION FOR THE WORK

CASE NAME: Avocet Faculties Limited

CASE TYPE: Administration

OFFICE HOLDERS: Kris Anthony Wigfield and Jason Stuart Ainge

DATE OF APPOINTMENT: 10 September 2021

### 1 CASE OVERVIEW

1.1 This overview is intended to provide sufficient information to enable the body responsible for the approval of pre-administration costs to consider the level of those costs in the context of the case.

#### 1.2 Time costs information

Details of the time spent by each grade of staff prior to the appointment of the administrators and the overall average hourly charge out rate for the pre-administration work are set out in the attached table.

Full details of the work undertaken by the administrators and their staff prior to appointment are set out below and in the Administrators' Statement of Proposals.

#### 1.3 Overview of work undertaken prior to appointment

Prior to appointment, the proposed Joint Administrators spent time advising the secured creditor, Omega Infinite Plc (In Liquidation) (the "Company") on the options and/or processes available to the Company and advised Omega on the appropriate process for appointing administrators.

A full breakdown of the pre-appointment work undertaken is provided in the main body of the Proposals, however, a further summary is provided below:

- Review of the Company's financial position;
- Liaising with Omega in respect of their security and indebtedness;
- Completion of file set up, pre-appointment statutory and compliance requirements; and
- Formulating a strategy in regard to the floating charge appointment and liaising with Irwin Mitchell LLP ("IM") and Omega in respect of lodging the Notice of Appointment.

#### 1.4 Complexity of work undertaken prior to appointment

The work is complex as it involved a floating charge appointment and involved high level strategy discussions with Omega regarding their concerns in relation to the Company's assets.

#### 1.5 Exceptional responsibilities

The majority of the work was undertaken by the proposed administrators and senior case staff due to the complex nature of the work.

## **1.6 The proposed Administrators' effectiveness**

As detailed within the attached proposals, the Joint Administrators presently consider that it is not reasonably practicable to achieve either of the objectives specified in sub-paragraph 3(1)(a) and 3(1)(b), and consequently the most appropriate objective to pursue in this case is that specified in sub-paragraph 3(1)(c), namely realising property in order to make a distribution to one or more secured or preferential creditors. Furthermore, the Joint Administrators consider that pursuing this objective should not unnecessarily harm the interests of the creditors of the Company as a whole.

The Joint Administrators consider that objective 3(1)(c) will be achieved following the sale of the Company's assets, specifically the properties and redundant jetty, which should facilitate a distribution to the secured and preferential creditors. The work undertaken to date has ensured that the assets are secured in preparation for the properties to be marketed and sold as soon as practically possible which will further the achievement of the objective.

## **1.7 The views of the creditors**

The views of the Company's creditors with regards to the discharge of the pre-appointment costs have not been sought directly until this point.

## **1.8 Approval of fees, and expenses incurred in the period prior to appointment**

The Administrators are seeking a resolution in relation to their pre-administration costs as follows: that the unpaid pre-administration costs detailed in the Joint Administrators' Statement of Proposals for achieving the purpose of administration, be approved for payment.

## **1.9 Expenses incurred in the period prior to appointment where payment is proposed to be made to Begbies Traynor and/or another entity with Begbies Traynor Group**

### **Category 2 Expenses**

There are no Category 2 expenses to be charged in relation to the period prior to appointment.

## **1.10 Other professionals employed & their costs**

IM were chosen to advise on the legal matters and advice relating to the appointment. IM were instructed due to their extensive experience in dealing with insolvency matters.

Eddisons Commercial Limited ("Eddisons") were chosen to market and sell the Company's assets. Eddisons were instructed due to their extensive knowledge and experience in selling assets in a distressed sale scenario.

## **1.11 Staffing and management**

The staff were chosen based on their experience, qualifications and knowledge of dealing with similar administrations. The case is overseen by two licenced insolvency practitioners within the Sheffield and Leeds offices who have dealt with the pre appointment matters leading up to the appointment.

In addition, the day to day running of the case will be dealt with by a manager within the Leeds office, and a case administrator within the Sheffield office who, will report to all the office holders on a frequent basis, to ensure all statutory matters are complied with and completed in the relevant timescales.

## **2 EXPLANATION OF OFFICE HOLDERS' CHARGING POLICY**

### **2.1 Begbies Traynor (SY) LLP's policy for charging fees and expenses incurred by office holders is attached at Appendix 3.**

## AVOCET FACULTIES LIMITED

### DETAILS OF HOW THE ADMINISTRATORS ARE SEEKING TO BE REMUNERATED

Further to our appointment, we are seeking creditors approval to be remunerated on one, or a mixture of the bases allowed under the Insolvency (England and Wales) Rules 2016. These are (a) as a set amount, the 'Fixed Fee', (b) as a percentage of the value of the assets realised and funds distributed, (c) on a time costs basis.

In this case, we are seeking that our remuneration be agreed on the on the following basis:

#### **(b) Percentage Basis**

We are seeking to be remunerated on a percentage basis of asset realisations as well as a percentage of realisations from our investigations as follows: -

Nature of asset	Percentage being sought (%)	Estimated fee based upon the percentage being sought
Freehold Land & Property	20	Uncertain
Matters identified as a result of investigation work undertaken	50	Uncertain

#### **What is the anticipated payment for administering the case?**

In relation to our proposed basis of remuneration, we are aware that the fee that we will be able to draw will be limited to the amount that is realised for the assets, (less associated costs). As the position at this stage is uncertain we are unable to provide an estimate on the level of fees we anticipate to draw. However, further details will be provided within the Joint Administrators subsequent progress reports.

However, please note that should there be additional or unexpected asset realisations, we will look to draw our fees from those too, limited to the level that the creditors approve.

#### **Arriving at our fee estimates**

The percentage(s) that we are seeking have been arrived at based on the nature and complexity of the case as well as the nature of the assets involved, as can be demonstrated above. We have also looked at previous administrations of a similar nature in order to ensure that the percentage proposed represents a fair and reasonable reflection of the work that we expect to carry out. This fee does not include any additional expenses which it may be necessary to incur in preparing the statement of affairs and seeking a decision of the creditors. In the event that this is necessary, these will be disclosed separately.

#### **Summary of the work to be undertaken in the Administration**

The following work category descriptions are provided in order for creditors to understand the statutory and general duties involved during the course of the administration.

#### General case administration and planning

The Joint Administrators will arrange for the Company's statutory information to be reviewed and updated onto their internal systems to enable the relevant statutory documentation to be issued. In addition, the statutory checklists will be completed to ensure that the necessary paperwork following their appointment is issued where relevant.

A case specific diary template will be added to their internal system, which assists the Joint Administrators in keeping statutory matters up to date.

Insolvency Practitioners are required to maintain records to demonstrate how the case is administered, and to document any decisions that materially affect the case. Time will be spent updating internal systems to ensure that all information required to allow the Joint Administrators to effectively manage the administration of the case, is obtained and held. The case will be subject to regular reviews to ensure case progression and the files will be kept up to date.

The Joint Administrators will continue to ensure that their files are maintained and will carry out regular compliance reviews of the case in order to ensure that matters are being progressed in an efficient and timely manner.

Whilst this does not directly benefit creditors financially, it is necessary to ensure the efficient and compliant progressing of the administration, which ensures that the Joint Administrators and their staff carry out their work to high professional standards.

#### Compliance with the Insolvency Act, Rules and best practice

The Insolvency Practitioners are governed by the Insolvency Act and Rules, together with following best practice guidelines known as Statements of Insolvency Practice. The Joint Administrators have certain statutory obligations and duties to fulfil whilst in office which include the regular filing of progress reports with Companies House and the filing of a final report at the end of the period. The Joint Administrators are also required to notify various bodies of their appointment, including creditors, Companies House, and advertise their appointment in the London Gazette.

A statutory bond will be requested to cover the realisations received into the case for the benefit of the Company's creditors.

Steps will be taken to prepare the Joint Administrators' proposals (including relevant disclosures), the statutory notices and arrange for them to be circulated to creditors. The Joint Administrators will request that the Company's registered office be changed to that of the practice.

In addition, the Joint Administrators will arrange for a case bank account to be opened in order that incoming and outgoing transactions can be posted onto the system and carried out accordingly.

The Joint Administrators are also duty bound to correspond with creditors and issue notice of the insolvency event to the likes of the pensions departments, banks and other parties who would have an interest in the proceedings.

This work does not benefit creditors financially but is necessary in accordance with the Insolvency Act, Rules and best practice.

### Investigations

Within three months of their appointment, the Joint Administrators are required to submit an online conduct report in accordance with the Company Directors Disqualification Act. In order to fulfil this duty, the Joint Administrators will seek to recover the Company books and records, both hard copy and electronic, in order to carry out the investigations. Any person who is or has been a director or is considered as a de facto or shadow director of the Company in the three years prior to the insolvency event are also asked to complete a questionnaire to assist with their investigations.

The Joint Administrators have a duty to examine the conduct of the Company and its directors in order to identify whether there have been any transactions prior to the Administration which, prima facie, fall within the antecedent transactions provisions of the Act which may give rise to actions that can be pursued to generate recoveries into the estate. Such investigations may include analysis of the Company's bank statements, reviewing information provided by third parties and analysis of the Company's management accounting systems. Where appropriate creditors or other parties may be asked to come forward with information.

Any financial benefit to creditors in carrying out the above work is unclear at present however creditors will receive updates on these matters in the Joint Administrators progress reports.

### Dealing with all creditors' claims (including employees), correspondence and distributions

Time will be spent dealing with creditor queries as and when required. This can include queries by telephone, email or within letters received in the post. If there is likely to be a distribution, creditors will be made aware of this at the earliest possibility, whether it be detailed in our initial correspondence, a progress report or by notice of intended dividend issued during the course of administering the case.

Creditors' claims will be dealt with in accordance with the order of priority, and therefore only if there is a prospect of a dividend in the insolvency proceedings, will those specific claims be adjudicated on. However, all claims received will be noted and registered. The administrator is unable to distribute a dividend to the unsecured creditors without permission of the court, other than of the prescribed part. Should there be funds available to make a distribution to the unsecured creditors, it is usual practice for a succeeding liquidator to deal with the claims of the unsecured creditors.

Where the Company has employees, who have claims in the Administration, it will be the role of appointed Administrator to liaise with the Redundancy Payments Service ("RPS") and collate employment records in order to submit information concerning sums potentially due in respect of outstanding salaries, holiday pay, pay in lieu of notice and redundancy.

The government will initially review and make payment of the claims of the employees, (up to their maximum allowances), and any shortfall on those claims will be a claim in the insolvency proceedings. The Joint Administrators will spend time liaising with the secured creditor in regard to their indebtedness and by way of reporting regular updates during the course of the administration.

This work is required to ensure that creditors' claims are dealt with effectively and in a timely manner to that distributions can be made promptly.

### Realisation of assets

Insolvency Practitioners are required to maximise realisations for the benefit of the Company's creditors. In order to do this we may need to consider instructing professional agents to carry out negotiations, provide inventories

and valuations. We may also need to instruct solicitors to complete sales. We may need assistance with debt collection exercises.

The Joint Administrators will continue to liaise with Eddisons and EIS with regards to the marketing and sale of the Company's properties and to ensure that adequate insurance remains in place.

All work carried out in respect of the asset realisation is for the purpose of realising property and assets for the benefit of the creditors generally.

#### Distribution of funds

In cases where sufficient realisations are made to enable a dividend to the secured and preferential creditors, I must review the claims and supporting documents and formally adjudicate on the claims. This may involve seeking additional supporting documents where claims require further review.

This will only occur should sufficient proceeds remain in the Administrators' estate after the costs of the Administration have been met in full.

As mentioned above, any distribution to the unsecured creditors, (unless by way of prescribed part), will be paid by a succeeding liquidator.

#### Other matters which include, seeking decisions from creditors (via DCP and/or via Decision Procedures), tax, litigation, pensions and travel

During the course of administering the case, the Insolvency Practitioner may be required to carry out additional work which doesn't necessarily fall under any of the other categories above, which may include bringing proceedings to seek to recover assets and funds into the Administration.

We will also be required to submit VAT and Tax returns when appropriate in order to reclaim monies for the estate and pay over any taxes due to HMRC. As detailed above, we are also duty bound to provide notifications and further assistance to pensions departments where applicable.

We may be required to travel to the Company's premises, or to a meeting external to our office if it assists with our realisation of assets, investigations or another aspect of the case

There are certain other matters which we may have to deal with which are not evident or foreseeable at the outset of the Administration, and these factors have been taken into consideration when proposing the basis of our remuneration. In the event of any significant changes to the circumstances of this matter which impact on the basis of the Administrators' remuneration, I will revert to creditors, providing full details of the circumstances at the time, with details as to any alternative fee proposals as necessary.

Instances and explanations of such work that might fall under this category are provided on our website at <http://www.beqbies-traynorgroup.com/work-details>.

Once again, there may not be any obvious financial benefit to creditors, but all work carried out would likely be considered necessary for the administration and progression of the case. Creditors will be notified of all of our actions in the progress and/or final reports issued.

Dated: 4 November 2021

**AVOCET FACULTIES LIMITED**

**DETAILS OF THE EXPENSES THAT THE ADMINISTRATORS CONSIDER WILL BE, OR ARE LIKELY TO BE INCURRED DURING THE COURSE OF THE ADMINISTRATION**

<b>No.</b>	<b>Type of expense</b>	<b>Description</b>	<b>Estimate £</b>
1.	Advertisements	Of appointment, dividends etc.	85.00 plus VAT
2.	Bond	An Insolvency Practitioner is required to have a bond in place to protect the estate from misappropriation of funds.	480.00 plus VAT
3.	Insurance	An Insolvency Practitioner is required to ensure that there is sufficient insurance cover over the assets of the insolvent entity.  Administration fees may also be charged on the policy.	275.00 plus VAT (per month)
4.	Property holding costs	Provision for contingent fees and unforeseeable holding costs including but not limited; lock change if applicable and drain downs of vacant properties in accordance with insurance policies; commissioning of an EPC certificate; Gas and Electric Tests; Legal costs, conveyancing, gaining vacant possession of the property to confirm occupational status by way of an assured shorthold tenancy.	5,000 plus VAT
5.	Storage costs	An Insolvency Practitioner is required to retain relevant books and records of the insolvent entity in order to carry out his/her duties as office holder. In addition, following case closure the Insolvency Practitioner will retain his/her working papers to allow any queries or issues raised to be dealt with.	155.20 plus VAT (based on an estimation of 20 boxes)
6.	Property agent's valuation, sale fees and disbursements	Eddisons Commercial Limited and their anticipated disbursements.	2% plus VAT of realisations (valuation and sale fee)  5,500 plus VAT (expenses and marketing fee)
7.	Legal fees and disbursements	The fees of any solicitors and/or barristers instructed to assist the Insolvency Practitioner and their anticipated disbursements.	20,000.00 – 30,000.00 plus VAT

8.	Bank charges	An Insolvency Practitioner is required to operate a separate bank account in relation to the insolvent entity's estate.	30.00 plus VAT
9.	Postage	Postworks.	Estimated at 36.65 plus VAT

For the avoidance of any doubt, the above estimate relates to the period of administration only, it does not relate to any expenses that will or may be incurred in any insolvency procedure following the administration.