

IN THE MATTER OF
PENTAGON PROTECTION PLC
AND IN THE MATTER OF
INSOLVENCY ACT 1986

PROPOSAL BY THE BOARD OF DIRECTORS FOR
A COMPANY VOLUNTARY ARRANGEMENT (“CVA”) UNDER PART 1
OF THE INSOLVENCY ACT 1986

1. HISTORY OF THE COMPANY

1.1. Background

Pentagon Protection plc, (“the Company”), was incorporated on 17 July 2002 and trades as a supplier of protective films for solar control, security, and blast protection window film and anchoring from its office in Croxley Green Business Park, Watford, WD18 8YX.

The company was admitted to the Alternative Investment Market in April 2003.

- 1.2. In 2008, the whole of the share capital of SDS Group Limited (“SDS”) was acquired; this company supplies specialist security equipment. In 2010, the Company acquired International Glass Solutions LLC (“IGS”) to establish a presence in the US protective film market.
- 1.3. The Company went to the market in November 2013 to fund expansion in USA but did not manage to raise any funds.
- 1.4. The group had a successful year in 2013 in terms of turnover and reported profits. The cash generated was used to repay company debt.
- 1.5. The Group has sustained losses every month from October 2013 and in January 2014, the directors foresaw a working capital shortfall and so entered into an Accelerated Mergers and Acquisitions process to sell part of the business (see 1.11.1 below).
- 1.6. On 20 February 2014, the Company issued its unqualified audited accounts for the period ended 30 September 2013. In the Chairman’s statement, the Company commented on its best year of trading and future prospects. In this the Shareholders were warned of cash difficulties and re-focusing of sales effort on the Middle East and Africa – but pointing out the additional risks associated with these markets. A sales pipeline of several times the existing annual sales was also noted.
- 1.7. Trading recently has been more difficult than anticipated with orders in the pipeline not being realised giving rise to significant cash flow problems.
- 1.8. The business has been partly funded by shareholder loans provided by its former chairman, Haytham ElZayn. These loans increased over the past trading year to the level of £326,365 shown in this document. The loans are secured firstly by a fixed

charge on the shares in SDS and secondly by a debenture given by SDS directly to Mr ElZayn.

As the financial difficulties become more acute during April 2014, Mr ElZayn was advised to resign as a Director in view of potential conflicts of interest arising; this resignation took effect on 7 April 2014.

- 1.9. On 17 April 2014, the Company dismissed Steve Harrhy – a director of the Company – for gross misconduct. At the time of this proposal, the Company has completed the dismissal and appeals process although no compromise agreement has been reached. The Directors do not believe any monies are due to Mr Harrhy.
- 1.10. On 21 May 2014, Haytham ElZayn exercised his security rights over the shares of SDS and now fully controls this company. He has since injected further funds of £18,500 to provide working capital and maintain its solvency. An agreed value of £110,000 has been attributed to these shares which has been used to reduce Mr ElZayn's loan account, which compares favourably with advice received from the Company's advisors when seeking to sell the subsidiary recently. In addition, Mr ElZayn took an assignment of intercompany balances due by SDS totalling approximately £80,000.
- 1.11. Therefore the Company made the following changes to rectify its financial situation:-
 - 1.11.1. Appointed Baker Tilly to conduct an accelerated sale of SDS and the Company's film business during March / April 2014. Although one offer was received for SDS, it did not proceed to completion as the Directors considered the offer to be substantially below its true market value. Baker Tilly was appointed on a wholly contingent fee basis and since no sale was completed, Baker Tilly was not paid for this work.
 - 1.11.2. The ownership of SDS has now been transferred to Haytham ElZayn who has enforced his security over the company.
 - 1.11.3. As noted above, Mr Harrhy has been removed as a Director.
- 1.12. This proposal will allow the creditors some return on their debt. This is to be funded by an introduction from Peterhouse Corporate Finance Limited who are proposing that the Company issues new shares, bringing in new shareholders and to use part of those proceeds to discharge the claims of the creditors as set out below and to fund the on-going listing costs of the Company.

1.13. **Benefit of CVA proposal**

It is now clear to the Directors that the group is no longer viable in its present position and furthermore, the Direct Film trade is not viable – requiring significant sums of new working capital to meet the costs of delivering the work when it comes in.

Accordingly, the Board of Directors consider that this proposal provides an opportunity for the unsecured creditors to make a partial recovery of their debt which is based on realising a value for the existing AIM listing status of the business. As demonstrated elsewhere in this proposal, the unsecured creditors are most unlikely to make any recovery from a liquidation or administration of the business and thus this

proposal represents the best chance of ensuring some recovery for the general body of creditors.

2. **STATUTORY INFORMATION**

- 2.1. Statutory details of the Company are set out in Appendix 1 and a summary from the most recent statutory Group accounts is set out in Appendix 2.1 and 2.2. It will be noted that the solvency of the Company as at 30 September 2013 relies on the value of the underlying investments in its subsidiary companies.
- 2.2. A comparative Estimated Outcome Statement is attached to this proposal as Appendix 3.
- 2.3. An estimated statement of affairs is attached at Appendix 4.
- 2.4. **Management Accounts as at 28 February 2014:**
Attached as Appendix 5 are the group management accounts for the period to 28 February 2013 which were the starting point for assessing the viability of the group businesses. Group losses of £372,000 were recorded compared with profits of £391,000 in the most recent statutory accounts. Losses have been recorded in each of the months since the year end.

2.4.1. **The Film Business:**

- a. The management accounts to 28 February 2014 show that the business has made trading losses of £224,000 for the period. The Directors attribute this to the delay in bringing sales in and also the high continuing costs of maintaining the Quoted Company status.
- b. A trading cash flow prepared for the purposes of considering the Company's options is attached as Appendix 6; this was prepared on the basis that it was possible to deal with trading expense arrears by means of a Company Voluntary Arrangement or the Company applied for an Administration order.

This cash flow document disclosed the need for additional cash sums for working capital and that the film business is not presently viable although the Directors consider that the order book pipeline continues to have a value.

2.4.2. **SDS Group Limited**

- a. The management accounts to 28 February 2014 show that the SDS business had lost some £96,000 in the year to date. Included in this calculation is a charge of £112,000 for its share of group overheads, thus indicating a marginal position before considering what level of additional overhead is required to manage the business.
- b. Short term cash flows worsened in early April which required emergency short term finance provided by Mr ElZayn direct to SDS to preserve the goodwill of this business.

- c. Mr ElZayn has now exercised his security rights and agreed a value for the subsidiary of £110,000.

2.4.3. IGS:

The most recent audited accounts for IGS disclose trading losses of \$99,000 and \$437,000 for the years ended 30 September 2013 and 2012 respectively. The most recent management accounts show no improvement with further losses of £52,000 sustained up to 28 February 2014.

As at 30 September 2013, the audited accounts showed a deficiency of assets to liabilities of \$295,000.

Accordingly, the Directors consider this investment to be worthless.

3. THE PROPOSAL

This proposal is being funded by a number of unconnected investors introduced by Peterhouse Corporate Finance Limited ("Peterhouse"), who wish to acquire a shell company with the benefit of an AIM quote listing on the London Stock Exchange ("the Peterhouse Investors"). Without this offer, it is most unlikely that any dividend would be available to the unsecured creditors of the Company. Accordingly the terms of this CVA comprise:-

3.1. Offer by the Peterhouse Investors:

In return for the issue of new shares in the Company, The Peterhouse Investors have offered the following sums:

- 3.1.1. It is proposed that £32,800 of new investment is paid into the CVA as a single contribution within 30 days of approval. This sum will be used to make a one off payment to unsecured creditors of the Company, estimated at £305,906. In addition, the Peterhouse Investors will make a contribution towards £20,000 of the costs of the CVA; and
- 3.1.2. The £200,000 that will be injected by the new share issue will be for working capital purposes and to the extent possible, to implement the new investment strategy of the Company.
- 3.1.3. After the issue of new shares, the existing shareholders will own approximately 24% of the Company.

3.2. The film business:-

- 3.2.1. The trade, goodwill, and fixed assets of the Company will be assigned to a newly formed subsidiary company ("PPFilm"). The Performance Bond (explained in further detail in 6.5.2) will also be assigned to PPFilm.
- 3.2.2. Haytham ElZayn will acquire the shares in PPFilm and at the same time waive the balance of any loans still due by the Company to him.

3.3. IGS:-

- 3.3.1. The shares in IGS will be sold for £1 to Haytham ElZayn and the sale is expected to complete by the time of the creditors' meeting.
- 3.3.2. The Intercompany loan due by IGS to the Company will be assigned to Haytham ElZayn for £1 as part of the sale of the IGS shares.
- 3.4. The following sums will be paid into the scheme to be administered by the Supervisor for the benefit of the unsecured creditors:-
 - 3.4.1. The sum of £32,800 will be paid by the Peterhouse Investors into the CVA as a single contribution under the terms stated in 3.1.1 above.
 - 3.4.2. PPFilm will make an offer for the assignment of the residual book debts of the Company. As at the date of the proposal, these book debts have a book value of approximately £22,000. For the purposes of the Estimated Outcome Statement at Appendix 3, an estimated realisable value of £10,000 has been used.
 - 3.4.3. Consideration equivalent to the equity in the Volvo car.
 - 3.4.4. Sufficient funds to discharge the Nominee and Supervisor's costs of administering the proposal.
 - 3.4.5. The Hive Down, conditional on the creditors' approval of the CVA proposal, will become effective from the date of the creditors' meeting.
- 3.5. Discussions are currently ongoing between employees and Mr ElZayn to see if the employees can be accommodated in either SDS or PPFilm as part of the reorganisation of the group. In the event employees are made redundant, the resulting employees' claims will be claims in the CVA and this would reduce the return to creditors.
- 3.6. The scheme will last for approximately 3 months from the date of approval but no longer than 9 months. Accordingly, it is important that creditors file their claims expeditiously after the approval of this Proposal.
- 3.7. Payments to unsecured creditors, in accordance with these proposals, will represent a full and final settlement of their claims against the Company. For the avoidance of doubt, following the approval of the CVA, no unsecured creditor may take any legal action whatsoever including enforcement actions in respect of amounts due to them as at the date of the approval of the CVA.

4. CVA PROJECTIONS

- 4.1. This CVA proposal, if accepted and successful, will enable the creditors to recover an estimated 13.9% of their indebtedness, as well as claiming (if appropriate) a VAT refund. This calculation makes allowance for the costs of the scheme.
- 4.2. In the event of Liquidation, it is estimated that the preferential creditors, being the employees' claims for arrears of wages and holiday pay will not be paid in full. It is not anticipated that unsecured creditors would receive any recovery from a Liquidation process.

- 4.3. It is anticipated that the dividend payment will be made when, in the sole opinion of the Supervisor, it is economic to do so – expected to be within the 3 month period of this Proposal. However, this is dependent upon creditors' claims being received in a timely manner.

5. MANAGEMENT OF THE BUSINESS

- 5.1. The business will be under the control of the Board who will be responsible for the business decisions of the Company. The Supervisor will not be responsible or liable for the actions or inactions of the Board, or any resulting consequences.
- 5.2. The Company will maintain proper accounting records and file all returns and payments resulting from the continuance of the business to HM Revenue and Customs on time.
- 5.3. The Board will supply the Supervisor with quarterly updates, management accounts and such additional information as the Supervisor may reasonably require.
- 5.4. Statutory and other required information will be supplied to Companies House, in compliance with current Company legislation.
- 5.5. The Company will pay its liabilities to post CVA creditors as they fall due. Save for normal trade credit, the Company will not take on any additional credit facilities without the express consent of the Supervisor.
- 5.6. The Company will account for the VAT incurred by the Supervisor on the Company's normal VAT returns. Where the CVA is entitled to a VAT refund, (as a result of the Supervisor's net receipts and payments), this shall be collected by way of the Company's ongoing post CVA VAT returns and paid to the Supervisor by the Company on submission of the VAT return giving rise to that refund.

6. ESTIMATED STATEMENT OF AFFAIRS AND OTHER INFORMATION

- 6.1. An Estimated Statement of Affairs as at 19th June 2014 is attached as Appendix 4.
- 6.2. The Estimated Outcome Statement at Appendix 3 compares the Company's estimates of what might happen on the Liquidation of the Company compared with the CVA proposal set out in this document.
- 6.3. The chattel assets of the Company have been valued on a break up basis in the event of the Company being placed into liquidation.
- 6.4. The creditors' claims are set out in the Appendices to the Statement of Affairs.
- 6.5. Two charges have been registered at Companies house, neither of which is a qualified floating charge:-
- 6.5.1. **The Haytham ElZayn charge** dated 25 October 2010 over the shares in SDS - now enforced by the transfer of shares in SDS to him on 21 May 2014.

- 6.5.2. **Performance Bond:** a legal charge dated 5 July 2010 over a cash deposit held by Technical & General Guarantee Company SA, which is now undergoing a form of insolvency process in Switzerland. The Directors consider that the bond of circa £12,000 is due to be repaid. However, the most recent report by the Bankruptcy Officer in Switzerland suggests that creditors are not expected to make any recovery from the process. As mentioned in 3.2.1, the Performance Bond will be assigned to PPFilm.
- 6.6. A number of other creditors have security over the Company's assets by way of hire purchase, lease or other finance agreements. These are listed in Appendix 3.
- 6.7. On the basis of the assumptions made, the dividend available in Liquidation is estimated to be nil compared with an estimated 13.9p/£ on the successful completion of a CVA.
- 6.8. **Connected Party:** The directors do not consider that there are any connected parties.

Haytham ElZayn, the former Chairman and holder of 28.95% of the issued share capital, resigned as a director on 7 April 2014 thereby severing his connection.

- 6.9. **ElZayn Loan Account:**
Mr ElZayn has proposed to take over the loss making Film Business in full and final satisfaction of his loan account and not participate in any other payments or dividends to creditors. The movements on his loan account can be summarised as follows:-

	£
Balance on Loan Accounts (28 Feb 14)	326,365
Staff salaries paid	13,634
Less Attributed to SDS Acquisition	(110,000)
Less Assignment of IGS/SDS Intercompany Account	(40,000)
Less Assignment of SDS /Pentagon Protection plc Intercompany Account	(40,000)
Balance waived (Para 3.2.2 above)	<u>149,999</u>

7 **CREDIT FACILITIES**

- 7.1 The Company will continue its bank account with National Westminster Bank for the time being, although new bankers are being sought.
- 7.2 No further credit will be obtained by the Company, without the express permission of the Supervisor, nor will security be granted to any creditor, without the express permission of the Supervisor.

8 **OTHER MATTERS**

8.1 **Voidable Transactions**

Save to the extent discussed in this document, the Board is not aware of any circumstance giving rise to the possibility, in the event that the Company goes into Liquidation, of claims arising under Section 238 (transactions at an undervalue), Section 239 (preferences), Section 244 (extortionate credit transactions) or Section 245 (invalid floating charges).

8.2 **Third Party Guarantees**

No third party guarantees have been given.

8.3 **Variation/Modification to Proposal**

8.3.1 Where a modification to the proposal is approved by creditors and accepted by the Company, the entire proposal shall be construed in the light of the modification and read to give effect to that modification such that any contrary or potentially contrary provisions in the proposal shall either be ignored, or interpreted, in order that the intention of the modification is given priority and effect.

8.3.2 The Supervisor may, with the consent of the creditors, vary the scheme. Such consent will be obtained by convening a meeting of creditors giving not less notice than is required for the approval of this proposal and obtaining a 50% majority vote of the creditors voting by value.

8.4 **Release of Liability**

The release of the company from liability to creditors by the terms of the CVA shall not operate as a release of any co-debtor for the same debt.

8.5 **Connected Party Transaction**

To the knowledge of the directors, there have been no connected party transactions.

8.6 **Trust**

All assets comprised in this scheme are held on trust, by the Supervisor, for those creditors bound by the scheme.

8.7 **Registered Office**

Upon the approval of this arrangement the Company Registered Office will be changed to 5 Park Court, Pyrford Road, West Byfleet, Surrey, KT14 6SD, and will remain at this address for the duration of the scheme.

8.8 **Creditors' Committee**

The Supervisor does not propose to form a Creditors' Committee.

9 **NOMINEE**

9.1 The Nominee is Robert David Hewitt of Gibson Hewitt Limited.

9.2 The Nominee should send his formal consent to the Company.

- 9.3 The Nominee will be paid a fee of £13,000 (VAT exempt) plus disbursements for advising the Directors, for the preparation of this proposal and acting as Nominee in connection with the convening of the meeting of creditors.

10 **THE SUPERVISOR**

- 10.1 It is proposed, subject to the approval of the creditors, that Robert David Hewitt of Gibson Hewitt Limited, 5 Park Court, Pyrford Road, West Byfleet, Surrey, KT14 6SD should be appointed Supervisor for the purpose of acting in relation to and supervising the implementation of the Company Voluntary Arrangement.
- 10.2 Robert David Hewitt is a licensed Insolvency Practitioner and is willing to act as Supervisor to the proposal.
- 10.3 It is proposed that the Supervisor will be remunerated by the Company on a time costs basis together with disbursements (including, for the avoidance of doubt, legal fees) having regard to the following:

The complexity of the case;

- 10.3.1 Any aspects in which, in connection with the Company Voluntary Arrangement there falls on the Supervisors any responsibility of exceptional kind or degree;
- 10.3.2 The effectiveness with which the Supervisor appears to be carrying out or to have carried his duties as Supervisor; and
- 10.3.3 The value and nature of the assets with which the Supervisor has to deal.

The Supervisor's costs referred to in 10.3 above are to be paid as an expense of the arrangement and in priority to any distribution to creditors. A web link to a Creditor's Guide to Supervisors Fees is shown in Appendix 5.

- 10.4 Details of the Supervisor's policy on disbursements is attached at Appendix 5 of this proposal. Appendix 5 also provides details of Gibson Hewitt's policy on typical tasks undertaken which would fall under the SIP 9 time cost analysis classification of "Administration and Planning".
- 10.5 The Supervisor will be paid monthly based upon his normal time costs. It is difficult to assess these at this stage but it is anticipated that these may amount to approximately £15,000 assuming that the creditors' claims are in line with the figures listed in the statement of affairs, they are all received within 2 months of the approval of the CVA and that all monthly payments are made to the CVA on the due dates. This assumption is based on 16.2 hours of partner time at £360ph, 10.5 hours of manager time at £235ph and 27.8 hours of administrators' time at an average rate of £125ph.

- 10.6 The Supervisor will also incur Category 1 and 2 disbursements as set out in the Statements of Insolvency Practice (SIP9) and detailed in Appendix 5.
- 10.7 The Supervisor will open a separate bank account at a branch of a recognised bank in the name of the Supervisor on behalf of Pentagon Protection plc. The Supervisor shall pay into such account funds received by them in respect of his functions as Supervisor and apply funds standing to the credit of such account to make payments or distributions contemplated by the Arrangement. The Supervisor shall be entitled to place funds on deposit with any recognised bank or invest funds in recognised government securities as he considers appropriate.

11 **POWERS OF THE SUPERVISOR**

- 11.1 The Supervisor will be responsible for receiving and distributing funds in accordance with the Arrangement and the following specific powers will be given to him:-
- 11.1.1 Power to collect in all remaining debts, in the event of the proposal failing.
 - 11.1.2 Power to pay any class of creditor.
 - 11.1.3 Power to make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim (present or future, certain or contingent, ascertained or sounding only in damages) against the Company, or whereby the Company may be rendered liable.
 - 11.1.4 Power to compromise, on such terms as may be agreed-
 - 11.1.4.1 all calls and liabilities to calls, all debts and liabilities capable of resulting in debts, and all claims (present or future, certain or contingent, ascertained or sounding only in damages) subsisting or supposed to subsist between the company and a contributory or alleged contributory or other debtor or person apprehending liability to the Company, and
 - 11.1.4.2 all questions in any way relating to or affecting the assets or the Company Voluntary Arrangement of the Company,
 - 11.1.4.3 and take any security for the discharge of any such call, debt, liability or claim and give a complete discharge in respect of it.
 - 11.1.5 Power to bring or defend any action or other legal proceeding in the name and on behalf of the company.
 - 11.1.6 Power to prove, rank and claim in the bankruptcy, insolvency or sequestration of any contributory for any balance against his estate, and to receive dividends in the bankruptcy, insolvency or sequestration in respect of that balance, as a separate debt due from the bankrupt or insolvent, and rateably with other creditors.
 - 11.1.7 Power to draw, accept make or endorse any bill of exchange or promissory note in the name and on behalf of the Company, with the same effect with respect to the Company's liability as if the bill or note had been drawn, accepted, made or endorsed by or on behalf of the Company in the course of its business.
 - 11.1.8 Power to appoint an agent to do any business which the Supervisor is unable to do himself.

- 11.1.9 Power to all such other things as may be necessary for winding up the Company's affairs and distributing its assets.
- 11.1.10 Power to make revisions to the proposals where such revisions do not appear to be substantial.
- 11.2. The Supervisor shall use his own discretion in the management of the assets and their distribution among the creditors.
- 11.3. The Supervisor shall exercise the above powers without the sanction of the creditors or the Creditors Committee, if one is appointed.
- 11.4. The Supervisor may at his discretion summon general meetings of the Company and creditors for the purpose of obtaining its sanction by special or extraordinary resolution, to make revisions to the proposals or for any other purpose they may think fit.
- 11.5. The Supervisor shall be authorised to pay from the funds under his control:
 - 11.5.1. Fees and costs set out in paragraphs 9.3 (any balance unpaid) and 10.3-10.6 above.
 - 11.5.2. Any expenses properly incurred by him in connection with this Company Voluntary Arrangement including but without prejudice to the generality of the foregoing:-
 - 11.5.2.1. Unless the court orders otherwise, the costs of any action to which the Supervisor is a party wherein costs are incurred by him or ordered against him in his capacity as Supervisor.
 - 11.5.2.2. The costs of complying with any obligation laid on them by virtue of this proposal, Insolvency Act 1986 or any Rules, regulations or ordered thereunder.
 - 11.5.3. Such other sums as shall be authorised or required to be paid by virtue of any rule of law.
 - 11.5.4. Trading expenses of this proposal at the request of the Directors, provided such expenses are in accordance with the terms of this Proposal
- 11.6. Any meeting called under Clause 11.4 shall be called giving 14 days' notice to all known creditors. The requisite majority for passing any resolution(s) at any meeting called under this clause shall be a simple majority.
- 11.7. Save to the extent that liability is imposed by statute the Supervisor, his employees or agents shall not incur any personal liability whatsoever in relation to any acts carried out by them in his capacity as Supervisor.
- 11.8. The Supervisor shall keep such records of his receipts and payments, acts and dealings, as are required by law.

12 AGREEMENT OF CLAIMS

- 12.1 The Supervisor shall agree the claims of all creditors of the company and shall have the following powers to enable them to do so:

- 12.1.1 Part 4, Chapter 9 of the Insolvency Rules 1986 – Rule 4.73 through to Rule 4.94 inclusive.
- 12.1.2 Part 4, Chapter 10 of the Insolvency Rules 1986 – Rule 4.95 through to Rule 4.99 inclusive.
- 12.1.3 Part 11, Rule 11.8, Rule 11.9 and Rule 11.11
- 12.2 All creditors of the Company, whether preferential, unsecured or contingent creditors or creditors with claims for unascertained amounts, are required to submit their written claims to the Supervisor within **two months** of the final approval of the Company Voluntary Arrangement. Where a creditor is unable to submit their written claim to the Supervisor in the above timescale he must advise the Supervisor in writing of the reason the claim may not be calculated and provide an indication when the claim may be anticipated.
- 12.3 If no claim is received within the timescale set out in Clause 12.2 above and the Supervisor does not receive written confirmation a claim is due, the creditor may be omitted from the distribution. Any creditor who seeks to claim in the Company Voluntary Arrangement after such date shall not be entitled to disturb a distribution already made.
- 12.4 For the purposes of this proposal the preferential creditors of the company shall be those creditors who would be classified as having preferential claims pursuant to Sections 175, 386 and Schedule 6 of the Insolvency Act 1986, together with Schedule 3 of the Social Security Pensions Act 1975.
- 12.5 The relevant date for such claims will subject to the other provisions of this agreement be date on which this proposal is agreed by creditors.
- 12.6 For the purposes of this proposal the unsecured creditors of the company shall be those creditors who would be classified as having non-preferential claims as set out in Rules 12 and 13.12 of the Insolvency Act 1986.

13 **DISTRIBUTIONS TO CREDITORS**

- 13.1 The Supervisor will distribute the funds according to the order of priority as set out in the Insolvency Act 1986.
- 13.2 Where any creditor's claim is disputed by the Supervisor, the Supervisor has the power to make full provision for the disputed claim, pending resolution of that dispute, and in the meantime pay a distribution to other creditors.
- 13.3 Where any creditor has notified the Supervisor of a claim under Clause 12.2 above and that creditor has retained a refund due to the Company under the provisions of Crown Set-Off, the Supervisor shall make provision for the full claim of the creditor and pay a distribution to the unsecured creditors. The full provision referred to will lapse when the Crown Set Off and the creditor's claim have been agreed by the Supervisor.

- 13.4 Where any creditor has notified the Supervisor of a claim under Clause 12.2 above, the Supervisor shall make provision for the full claim of the creditor and pay a distribution to the unsecured creditors.
- 13.5 The date of the first and final distribution will depend on the rate at which the creditor claims can be agreed by the Supervisor. It is hoped that this distribution will be made approximately 2 months after the approval of the CVA. Assuming the Company adheres to the terms of this proposal and that all creditors' claims are in line with the Statement of Affairs and those claims are received within 2 months of the approval of the CVA, it is anticipated that this dividend will be of 13.9p/£.
- 13.6 Any unpaid dividends held by the Supervisor on completion of the arrangement, which remain unpaid for whatever reason, are to be passed to the Company or a Liquidator, if appointed.

14 **UN-NOTIFIED CLAIMS**

Under the provisions of the Insolvency Act 1986, un-notified creditors will be bound by the terms of this proposal, if it is approved at the proposed creditors meeting. Any such claims will be dealt with as follows:-

- 14.1 Claims notified before the completion of the proposal will be added to the list of unsecured creditors and become eligible for the dividend to be paid to this class of creditor.
- 14.2 Claims notified after the end of the proposal will be entitled to receive a payment from the ongoing company, calculated at the same rate as the final distributions made by the Supervisor under the proposal.

15 **DIRECTIONS**

- 15.1 If the Supervisor is for whatever reason uncertain as to what action he should take in any situation he shall within his own discretion:
- 15.1.1 seek the advice of the Creditors' Committee, if any;
 - 15.1.2 seek the advice of the creditors;
 - 15.1.3 apply so far as is possible the Insolvency Act and Insolvency Rules as they relate to this situation and, subject thereto;
 - 15.1.4 apply to the Court for directions.

16 **COMPLETION**

- 16.1 Completion of the Arrangement shall take place following distribution of the Arrangement assets at which time the Supervisor will complete his duties under the act and shall in writing notify the creditors and members accordingly.
- 16.2 On completion or termination for any reason the powers and duties of the Supervisor shall be fully and completely discharged from all obligations under the proposals.

17 **BREACH AND FAILURE**

17.1 **Definition of Breach**

The terms of the CVA will be deemed to have breached if, inter alia:-

- 17.1.1 Any payment due to the CVA is not received by the Supervisor within 30 days of the date on which the payment fell due.
- 17.1.2 any matter arises which would entitle any person to petition for the Winding Up of the Company, or any other Insolvency Procedure is commenced.
- 17.1.3 The Company fails to comply with any of the terms of the arrangement.
- 17.1.4 any act or thing which in the opinion of the Supervisor renders the implementation of the arrangement impossible or frustrated unless such act or thing is envisaged or catered for in the proposal, provided that the sale of an asset or realisation of an asset for a sum less than that estimated shall not constitute an act or thing within the meaning of this provision unless such is caused by my act or default or by someone on my behalf other than the Supervisor.
- 17.1.5 if any condition precedent of the arrangement is not met within the prescribed time.

17.2 **Events on Breach**

- 17.2.1 Where the terms of the arrangement have been breached within the meaning of condition 17.1 hereof, then, unless such breach is remedied forthwith, the Supervisor shall as soon as practicable issue a Notice of Breach identifying the breach and requiring the Company to rectify the breach.
- 17.2.2 If the Supervisor thinks fit, the Notice of Breach shall require the Company to provide the Supervisor with a full explanation for the breach.
- 17.2.3 A period within which the breach must be rectified shall be stated on the Notice of Breach. This time period shall be not less than one month and not more than three months and shall be fixed at the Supervisor's discretion. The period of time within which the breach must be remedied shall commence from the date on which the Notice of Breach is issued by the Supervisor.
- 17.2.4 If, within the period of between one month and three months referred, the Company remedies the breach of the Arrangement and provide a full explanation for the breach if so required, no further action shall be taken against the Company, except that the Supervisor will report the breach to the creditors when he next reports to creditors.
- 17.2.5 If the Company has not remedied the breach by the time specified or allowed in the Notice of Breach, the CVA shall be considered to have failed.
- 17.2.6 Any breach in accordance of paragraph 17.1 which, in the opinion of the Supervisor, is not capable of remedy, shall constitute the failure of the CVA without the need for the Supervisor to issue a Notice of Breach.

17.3 **Failure**

Where the CVA is determined to have failed in accordance with section 17.2 of this proposal, the following shall apply:

- 17.3.1 the Supervisor shall report such fact to the creditors.

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- 17.3.2 the Supervisor must consider whether to call a meeting of creditors.
- 17.3.3 the Supervisor must consider whether to petition for a Winding Up Order
- 17.3.4 when a Certificate of Termination has been issued any creditor bound by the arrangement shall no longer be bound and shall be entitled in respect of his debt to proceed against the Company as he sees fit.
- 17.3.5 the Supervisor shall disburse such funds in his hands in accordance with the provisions of the arrangement unless he is prevented by law from so doing.
- 17.3.6 any distribution to creditors made shall be made only to those creditors who would have been entitled to claim, or had made a claim in the CVA as originally proposed.
- 17.3.7 it is hereby declared that the failure of any person, including the Company, to do any act or thing or to refrain from doing any act or thing within a specified period of time shall not constitute a failure of the scheme unless such specified period of time is expressed to be of the essence. Any condition precedent shall be "of the essence" unless otherwise provided for in the proposal.
- 17.3.8 a Certificate of Termination will be issued either when any of the following occurs:
 - 17.3.8.1 a Winding Up Order;
 - 17.3.8.2 a valid resolution to Wind the Company up is passed;
 - 17.3.8.3 an Administration Order is made; or
 - 17.3.8.4 when the Supervisor in his sole discretion considers the voluntary arrangement to be unable to be completed to the satisfaction of creditors.

18 CONDITION PRECEDENT

The receipt of the first tranche of funding from Peterhouse is a condition precedent of this proposal.

19 EC REGULATION

The EC Regulation will apply and these proceedings are main proceedings as defined in Article 3 of the EC Regulation.

To the best of our knowledge and belief we have included in this proposal, all the information required to be disclosed under Insolvency Acts 1986 and The Insolvency Rules 1986 and we believe all the information contained therein to be true, accurate and correct.

For and on behalf of **PENTAGON PROTECTION PLC**

Signed: _____

Date: 19 June 2014

Steven Chambers, Director