

The Insolvency Act 1986

Administrator's progress report

Name of Company

HiWave Technologies plc

Company number

00514718

In the

High Court of Justice, Chancery Division,
Companies Court

(full name of court)

Court case number

1402 of 2013

(a) Insert full
name(s) and
address(es) of
administrator(s)I/We (a)
Peter Hart
Geoffrey Martin & Co
7-8 Conduit Street
London
W1S 2XFJames Sleight
Geoffrey Martin & Co
7-8 Conduit Street
London
W1S 2XF

administrator(s) of the above company attach a progress report for the period

From

To

(b) Insert date

(b) 6 March 2013

(b) 5 September 2013

Signed

Joint / Administrator(s)

Dated

03 October 2013.

Contact Details:

You do not have to give any contact information in the box opposite but if you do, it will help Companies House to contact you if there is a query on the form

The contact information that you give will be visible to searchers of the public record

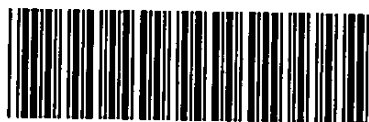
Peter Hart
Geoffrey Martin & Co
7-8 Conduit Street
London
W1S 2XF

DX Number

020 7495 1100
DX Exchange

When you have completed and signed this form, please send it to the Registrar of Companies at -
Companies House, Crown Way, Cardiff CF14 3UZ DX 33050 Cardiff

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04/10/2013

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COMPANIES HOUSE

y Limited, Glasgow, Scotland



**GEOFFREY
MARTIN
& CO**

7-8 Conduit Street
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3 October 2013

Telephone 020 7495 1100
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To all known creditors and members

E-Mail: info@geoffreymartin.co.uk
www.geoffreymartin.co.uk

when telephoning please
ask for—

Our Ref PH/JAS/PW/DO/HIWA401/RB4/PR01

Dane O'Hara

Dear Sirs

HiWave Technologies Plc – In Administration (“the Company”)

I write to provide my first report to creditors on the progress of the Administration pursuant to Rule 2.47 of the Insolvency Rules 1986 (“the Rules”)

This report should be read in conjunction with my report dated 26 April 2013 prepared pursuant to Paragraph 49 of Schedule B1 of the Insolvency Act 1986 (“the Act”) and my report on the outcome of the first meeting of creditors dated 15 May 2013

The information that is required to be disclosed in accordance with Rule 2.47(a) to (d) of the Rules is attached at Appendix A

1. Executive Summary

As advised in my Statement and Proposals issued in accordance with Paragraph 49 of Schedule B1 to the Act, the Company's principal asset, being its shareholdings in two wholly owned subsidiary companies, was sold to GLIF BMS Holdings Limited (“GLIF”) on 18 March 2013 (“the Sale”). The cash consideration for the Sale, being £100,000, had been received at the time of my last report

I attach at Appendix B an abstract of the Joint Administrators' receipts and payments covering the period from 6 March 2013 to 5 September 2013, in accordance with Rule 2.47(2) of the Rules. You will note that, since the date of my previous report, additional assets of £48,557 have been realised in the Administration. Specific details of asset realisations conducted since my report dated 26 April 2013 are provided in the relevant sections below

An Estimated Outcome Statement (“EOS”), updated to 5 September 2013, is attached at Appendix C, together with supporting notes

As confirmed in my report dated 26 April 2013, the Company's secured creditor has waived its right to claim in the Administration as a condition of the Sale and, as anticipated, no preferential claims have been lodged in the Administration by former employees of the Company



The EOS indicates a reduction in the estimated funds available to unsecured creditors compared to my earlier reports. This is as a result of an increase in the anticipated fees of the Joint Administrators due to the strategic changes in the Administration process which are detailed later in this report. Despite this increase it is still anticipated that there will be a return to unsecured creditors, however, the quantum of any such distribution will be highly dependent on further asset realisations from the deferred income clauses that form part of the Sale.

2. Joint Administrators' Proposals

The Joint Administrators' proposals for achieving the purpose of the Administration, as detailed in my report dated 26 April 2013, were approved without modification as confirmed in my report on the outcome of the creditors' meeting dated 15 May 2013.

The objective of the Administration remains that of achieving a better outcome for creditors than would have been possible if the Company had entered into Creditors' Voluntary Liquidation, without first having been in Administration.

3 Asset Realisations

Details of asset realisations in the Administration are provided below. Please note that the notes below refer solely to asset realisations conducted subsequent to the Joint Administrators' Statement and Proposals report issued on 26 April 2013.

3.1 Sale of shareholdings and investments in subsidiary companies

The Company was the sole shareholder of HiWave Technologies (UK) Limited ("HiWave UK") and HiWave Hong Kong Limited ("HiWave HK").

The Company's shares in HiWave UK and HiWave HK, and the associated investments, were sold to GLIF on 18 March 2013. For further details concerning the Company's shareholdings in HiWave UK and HiWave HK, the associated intercompany loans and the Sale please refer to section 5 of the Joint Administrators' Statement and Proposals dated 26 April 2013.

The Sale included a deferred income clause which becomes effective in the event that any part of the intellectual property of HiWave UK is disposed of within 24 months of the Sale. In the event that a disposal of any part of the intellectual property of HiWave UK is conducted within 12 months of the Sale, the Company is entitled to 15% of the gross proceeds of sale. If such a sale of intellectual property is conducted between 12 and 24 months after the Sale, the Company is entitled to 10% of the gross proceeds.

I have been notified by GLIF that a sale of part of the intellectual property of HiWave UK has been concluded. As this disposal took place within 12 months of the Sale being concluded the Company should be entitled to receive the equivalent of 15% of the gross proceeds from GLIF. The Joint Administrators are currently awaiting further documentation that will confirm specific details of the terms of the disposal, the consideration receivable by HiWave UK and, consequently, any balance due to the Company by GLIF under the deferred income clause. It is understood that the terms of the sale are such that any consideration to HiWave UK is to be paid on a deferred basis and as such there would appear to be no immediate benefit accruing to the Company. I will report further on this issue in my next report to creditors.

The Sale agreement also entitles the Company to a percentage of income generated by HiWave UK deriving from its intellectual property, over a minimum threshold of £800,000, for a period of 24 months following the Sale. HiWave UK's financial statements are due to be reviewed following the first anniversary of the sale on 18 March 2014. Again, I will report further to creditors in respect of potential recoveries in due course.

3.2 Intercompany debts – overseas subsidiary

The Company was the sole shareholder of HiWave HK and provided funding to this entity. The funds provided to HiWave HK were accounted for as an intercompany receivable on the Company's balance sheet.



The intercompany debt of £20,179 due to the Company by HiWave HK was not specifically assigned to GLIF as part of the Sale

The Joint Administrators contacted HiWave HK and requested their proposal for settling the outstanding intercompany receivable balance. The directors of HiWave HK responded confirming that this entity was insolvent and had insufficient funds to discharge the intercompany receivable balance due by it to the Company. Accounts were subsequently provided by HiWave UK which confirmed this position.

The review of HiWave HK's financial accounts also confirmed that this entity has few assets and is therefore not considered to be a commercially viable target for litigation.

3.3 Long term debtor

The Company holds a 10% interest in Audio Technology Associates LLC ("ATA"). ATA is owned by the former shareholders of a company by the name of Sound Advance Systems Inc ("SAS"). The Company entered into an agreement with SAS in 2004 whereby annual royalty payments in respect of certain products sold would be paid to the Company for a period of 10 years. As at 6 March 2013, the Company's accounts confirmed an outstanding balance of £22,777 due to the Company by ATA. This balance relates to royalty payments that are anticipated to be paid to the Company until the end of the agreement in 2014.

A royalty payment of \$7,734 was received into the Administration on 6 March 2013. This payment has subsequently been exchanged into a Pound Sterling balance of £4,916.

It is anticipated that, as a result of the deferred income clauses agreed as part of the Sale, the conclusion of the Administration will be delayed for sufficient time to allow the receipt of the remaining royalty payments due to the Company by ATA. The quantum of any further realisation from this source remains uncertain.

3.4 VAT refund

At the date of Administration the Company was due a VAT refund from HM Revenue & Customs in respect of the period ended 5 March 2013. The Company's estimated Statement of Affairs as at 6 March 2013 stated that the balance of the VAT refund equated to £9,662. Following submission of the Company's final pre-Administration VAT return a refund of £8,771 has been received from HM Revenue & Customs. This recovery is slightly lower than the balance previously reported due to a discrepancy in the initial calculation of the refund amount.

3.5 Rent deposit

In December 2012 the Company moved premises from Cambourne, Cambridgeshire to Little Gransden, Cambridgeshire. The Company's former premises at Cambourne had been leased in the name of the Company. Following vacation of these premises the landlord confirmed the return of the balance of the rent deposit amounting to £30,050. This amount was paid directly into the Company's bank account and was recovered on receipt of the closing bank balance on 15 April 2013.

3.6 Prepayments

The Company's management accounts as at 28 February 2013 showed prepayments of £3,912. A full review of the prepayments has been conducted by the Joint Administrators and it has been confirmed that there will be no realisations in this regard.

3.7 Cash at bank

The Company's Statement of Affairs as at 6 March 2013 showed a cash at bank balance of £4,994. A total of £4,720 was recovered in the Administration bank account on 15 April 2013. The difference of £274 results from a small number of direct debits and charges that debited the Company's bank account shortly prior to the Administration.



3 8 Sundry receipts

A sundry receipt of £279 was received by the Joint Administrators on 20 March 2013. For further details please refer to the Joint Administrators' previous report dated 26 April 2013.

3 9 Bank interest gross

Bank interest of £99 has accrued on the Administration bank account during the period covered by this report.

4. Corporation Tax Returns

I am obliged to prepare and submit Corporation Tax returns relating to the period of Administration. This will be done after the conclusion of the tax accounting period and with the assistance of tax advisors.

5. Investigations

5 1 Statutory Investigations

As part of my duties as Joint Administrator, I am required to conduct investigations to confirm the extent of the Company's assets, including potential claims against third parties (including the directors), and to report my findings to creditors (subject to considerations of privilege and confidentiality and whether those investigations and/or any potential litigation might be compromised by such a disclosure).

In accordance with Statement of Insolvency Practice 2, I have conducted an initial assessment of the Company and the specific areas which warranted further investigation.

5 2 Areas of Concern Raised by Creditors / Shareholders

The Joint Administrators were contacted by a number of creditors and shareholders regarding concerns over certain aspects of the Company's operations and the conduct of its officers.

After collating all information obtained in this regard from creditors / shareholders, I have also undertaken to investigate each of those areas in detail.

5 3 Outcome of Investigations

Due to the level of creditor and shareholder concern the Joint Administrators have conducted investigations that go above and beyond what is required of them in accordance with current Insolvency Legislation and "best practice" guidance.

To date, my investigations have not highlighted any potential actions that can be pursued for the benefit of creditors. Should this position change I will notify creditors and shareholders in my subsequent progress reports.

Should creditors have any further concerns regarding the conduct of the Company or its officers, I would invite you to provide me with full details of any such concerns, together with any evidence which may be available to support those concerns.

5 4 Joint Administrators' confidential report to the Department of Business Innovation & Skills ("DBIS")

The Joint Administrators are required to conduct investigations and submitted a confidential report to the DBIS on the conduct of the directors in accordance with the Insolvent Companies (Reports on Conduct of Directors) Rules 1996 and the Company Directors Disqualification Act 1986.

I confirm that this report has now been submitted to the DBIS, however, due to its confidential nature I am unable to disclose or discuss its content.



6. Estimated Outcome for Creditors

The EOS updated to 5 September 2013 is attached at Appendix C

The outcome for creditors may be summarised as follows

6.1 Secured Creditor

The Company had one charge registered at Companies House at the date of Administration. This charge represented a fixed charge in favour of BMS Finance AB Limited ("BMS") securing all liabilities due or to become due to BMS against the Company's shareholding in HiWave UK. At the date of my appointment, BMS was owed £400,000 in respect of the outstanding facility, according to the Group's records.

As previously reported, under the terms of the Sale, BMS, who are a company connected with GLIF, has foregone its security and agreed not to pursue a claim in the Administration.

6.2 Preferential creditors

As anticipated in my previous report dated 26 April 2013, no preferential claims have been lodged with the Joint Administrators.

6.3 Prescribed Part

The 'Prescribed Part' provisions of Section 176A of the Act do not apply in this regard as the Company does not have any outstanding floating charge holders.

6.4 Unsecured creditors

The EOS updated to 5 September 2013 shows an anticipated surplus of £3,075 to unsecured creditors. This balance is lower than previously reported due to an increase in the anticipated costs of the Administration process. Whilst it is still likely that a distribution will be paid to unsecured creditors, this will be reliant on any further receipts from the Sale's deferred income clauses referred to above.

7. Joint Administrator's Costs

7.1 Pre-administration costs

In my report under Paragraph 49 of Schedule B1 of the Act, I sought authorisation from creditors to draw my pre-Administration costs (including third party costs of £20,000) of £42,542 out of the assets of the Company as an expense of the Administration.

This was approved unanimously at the creditors' meeting held on 14 May 2013, and these costs have now been drawn from Administration funds. For further details of the Joint Administrators' pre-Administration costs, please refer to Appendix F of the Joint Administrators' Statement and Proposals report dated 26 April 2013.

7.2 Basis of the Joint Administrators' remuneration and disbursements

In my report under Paragraph 49 of Schedule B1 of the Act, setting out my proposals, I sought agreement that the underlying basis of the Joint Administrators' remuneration and disbursements be fixed by reference to time costs properly incurred at my firm's standard charging rates and that disbursements be drawn in line with my firm's charging and disbursements policy.

As previously reported, my proposals were approved by creditors at the meeting held on 14 May 2013.



7.3 Remuneration charged during the period of this report

Appendix D contains details of my firm's current charging and disbursements policy

Details of my time costs charged and disbursements incurred since my appointment are shown on the attached Appendix E. I have provided this information in this format as required by the provisions of the Statement of Insolvency Practice 9

As at 5 September 2013 the Joint Administrators have incurred time costs of £104,306 in attending to matters arising in the course of the Administration.

In common with other professional firms, our standard charging rates are reviewed periodically to take account of inflation and other matters affecting costs. Since the original approval of the basis of my remuneration on, there have been no increases to our charge out rates

7.4 Remuneration drawn during the period of this report

Details of my time costs drawn since my appointments are shown at Appendix E. To date, the Joint Administrators have recovered £15,000 in respect of their post Administration time costs

7.5 Disbursements incurred during the period of this report

Category 1 disbursements relate to expenses that are directly attributable to the case and do not require specific creditor approval before they can be recovered from Administration funds

As at 5 September 2013 the Joint Administrators have incurred Category 1 disbursements totalling £801 as follows

	£
Companies House search fees	5
Storage of Records	240
Case Specific Bond	330
Statutory Advertising	226
	<hr/>
	£801

Category 2 disbursements require specific authorisation from creditors as they relate to costs which are not specifically identifiable to the case. These are charged in accordance with the firm's charging and disbursement policy which can be found at Appendix D of this report

The Joint Administrators have incurred Category 2 disbursements equating to £178 in the period covered by this report, a summary of which is provided below

	£
Postage, Stationery & Telephone	149
Mileage	29
	<hr/>
	£178

7.6 Disbursements recovered during the period of this report

The Joint Administrators have recovered all Category 1 and Category 2 disbursements incurred in the period covered by this report

7.7 Expenses incurred and paid during the period of this report

In aggregate, I have incurred expenses of £59,372, and paid expenses of £34,690, during the period of this report. Of the residual expenses, a total of £19,056 has been written off leaving outstanding costs of £7,789 in the Administration. A detailed breakdown and explanatory notes are provided at Appendix E



7.8 Creditors' guide to fees and statement of creditors' rights

If you require further information relating to Administrators' remuneration, expenses and disbursements please see Appendix F. This also gives details of your rights as a creditor.

8. Outstanding Matters and Exit from Administration

The majority of asset realisations in the Administration have been finalised, with the exception of any deferred income payable under the Sale to GLIF.

The deferred income clauses run for a period of 24 months from March 2013, and will therefore expire in March 2015. It will therefore be necessary to delay the conclusion of the Administration beyond March 2015 in order to monitor the deferred payment clauses and maximise potential recoveries for creditors.

The Joint Administrators' proposals set out the options available to the Joint Administrators to allow the Company to continue in existence subject to the expiry of the deferred income clauses, namely:

- To move the Company from Administration to Creditors' Voluntary Liquidation in accordance with Paragraph 83 of Schedule B1 to the Act, or
- To make an application to Court for the duration of the Administration to be extended from 12 months to 30 months, in accordance with Paragraph 107 (1) of Schedule B1 to the Act, to enable sufficient time for the deferred income clauses to be concluded.

There are, expected to be sufficient funds in the Administration to pay a distribution to unsecured creditors (which is a requirement of moving the Company from Administration to Creditors' Voluntary Liquidation), and therefore the main consideration for the Joint Administrators when assessing which of the above options offered the best outcome to creditors was ultimately dictated by the costs associated with each procedure.

If the Company were to move to Creditors' Voluntary Liquidation this would avoid the need to make an application to Court (which is required to extend the duration of the Administration to 30 months) and would require progress reports to be issued on a 12 monthly, rather than six monthly, basis. There is, however, a requirement in any Creditors' Voluntary Liquidation procedure for the appointed Liquidator(s) to issue copies of his notice of appointment and all progress reports to the Company's shareholders by post. The cost of this process is estimated to be around £9,000 per report (given that there are circa 12,800 shareholders). It is anticipated that a total of four circulars will be required in the Liquidation, giving a total anticipated cost of £36,000.

In contrast, to extend the duration of the Administration beyond 12 months, requires an application to Court to seek an extension of the duration of the Administration and also to permit the payment of an unsecured distribution directly from the Administration. This is estimated to cost £10,000. Maintaining the Administration for an extended period and submitting six monthly progress reports will generate additional time costs, however, the Joint Administrators will be able to provide shareholders with copies of their progress reports in Administration via electronic means, considerably reducing costs.

Considering the above, it has been decided that the Joint Administrators will seek to extend the duration of the Administration to allow sufficient time for deferred income clauses to be concluded. This will, in the circumstances, maximise the potential funds available for distribution to unsecured creditors. The EOS at Appendix C reflects this decision in the increased level of anticipated legal fees and Joint Administrators' remuneration and disbursements.



If creditors have any queries about the contents of this report or any other matter relating to this case, please contact Dane O'Hara at this office

Yours faithfully
For and on behalf of
HiWave Technologies plc

Peter Hart
Joint Administrator
Acting as agent of the Company
and contracting without personal liability

The affairs, business and property of the Company are managed by the Joint Administrators who act as the Company's agents and without personal liability

Peter Hart is licensed in the United Kingdom by the Insolvency Practitioners Association
James Sleight is licensed in the United Kingdom by the Insolvency Practitioners Association

**HIWAVE TECHNOLOGIES PLC
IN ADMINISTRATION**

APPENDIX A

**APPOINTMENT & STATUTORY
INFORMATION**

HiWave Technologies plc - In Administration ("the Company")

Statutory Information

Details relating to the appointment of Joint Administrators of the Company are provided below

Court details:	High Court of Justice, Chancery Division, Companies Court	
Court number:	1402 of 2013	
Date of appointment:	6 March 2013	
Administrators' details:	Peter Hart Geoffrey Martin & Co 7-8 Conduit Street London W1S 2XF	James Sleight Geoffrey Martin & Co 7-8 Conduit Street London W1S 2XF
Appointment by:	The Directors of the Company in accordance with Paragraph 22 of Schedule B1 of the Insolvency Act 1986 ("the Act")	
Extension of Administration	No extensions to the Administration period have been made at this stage	

In accordance with Paragraph 100(2) of Schedule B1 of the Act the Joint Administrators confirm that any act required or authorised under any enactment to be done by an Administrator may be done by either of them individually or jointly

The EC Regulation on Insolvency Proceedings 2000 will apply as the Company's main centre of interest is in the United Kingdom. In accordance with Article 3 of these Regulations, the Administration represents main proceedings

The statutory information of the Company as extracted from the Company's file at Companies House is as follows

Company number:	00514718
Date of incorporation	31 December 1952
Registered Office:	c/o Geoffrey Martin & Co 7-8 Conduit Street London W1S 2XF
Former Registered Office:	The 1840 Barn Fullers Hill Road Little Gransden Sandy SG19 3BP
Principal activity:	Holding Company - Research & Development on Natural Sciences and Engineering
Authorised share capital:	The Company has authorised share capital of £30,000,000 divided into 731,805,048 ordinary shares of 1p each, with a total nominal value of £7,318,050 and 94,508,123 deferred shares of 24p each with a total nominal value of £22,681,950
Issued and called up share capital:	The Company has issued, called up and paid up share capital of £26,950,132 consisting of 426,818,261 ordinary shares of 1p each with a total nominal value of £4,268,182 and 94,508,123 deferred shares of 24p each with a total nominal value of £22,681,950

Appendix A (continued)

Directors:

	Appointed	Resigned
David Bainbridge McIntosh	13/08/2012	N/a
James Edwin Lewis	01/10/2009	N/a
Clive Leonard Mayne	01/10/2011	N/a
Graham William Searle	13/08/2012	N/a
David James Anderson Calderwood	02/04/2012	N/a
Farad Azima	15/10/1992	28/02/2001
Firouz Henry Azima	26/07/2000	24/07/2007
Dwijendra Chandra Barkataki	23/02/1996	25/11/1997
Katherine Victoria Barnes	20/07/2007	15/06/2013
Lance Bachelor	20/10/2004	17/10/2007
David Matthew Bramwell	01/01/2011	05/01/2012
Sir Gordon Charles Brunton	Pre 15/01/1992	17/11/1997
Ian Michael Buckley	05/09/2001	01/01/2011
Philip David	28/05/1997	25/09/2001
Tony William Doughty	21/12/1994	21/12/1994
Tony William Doughty	21/12/1994	07/11/1996
Brian Douglas Drysdale	Pre 15/01/1992	13/11/1992
Sydney Edels	18/08/1993	21/10/1993
Anita Margaret Frew	05/09/2001	22/07/2004
Lord Alexander Gowrie	29/11/1995	25/09/2001
Helen Haigh	Pre 15/01/1992	18/03/1992
Anthony Douglas Knox	05/09/2001	13/07/2004
Wing Hung Johnny Lau	21/10/1993	16/07/1996
David Nigel Mackay	01/10/2004	31/03/2009
Keith Michael Mellors	Pre 15/01/1992	13/11/1992
Gordon Michael William Owen	Pre 15/01/1992	31/05/2005
David Charles Pearson	01/03/2000	09/05/2005
Graham Christopher Ryan	09/05/2005	20/07/2007
Dr Bernhard Franz Josef Steiner	01/09/1994	31/03/1999
Peter Young Thoms	07/12/1992	22/09/2010
Pieter Willem Totte	Pre 15/01/1992	18/03/1992
Mark Robert John Tyndall	Pre 15/01/1992	27/04/1995
Ross James Walker	22/09/1995	25/11/1997

Company secretary:

	Appointed	Resigned
Edward Simpson	15/06/2012	N/a
Katherine Victoria Barnes	20/07/2007	15/06/2012
Brian Douglas Drysdale	Pre 15/01/1992	13/11/1992
Robert Edward Jones	13/11/1992	30/11/1992
Peter Young Thoms	30/12/1992	20/07/2007

Previous Names:

	Date of Change
NXT Plc	17/12/2010
Verity Group Plc	02/11/1998
Wharfedale Plc	16/10/1992
Audio Fidelity Plc	19/01/1990
Audio Fidelity Limited	1981
Audio Factors Limited	1965
RSC (Leeds) Limited	1961
Radio Supply Co Limited	1960

Shareholders:

The Company's shares were traded on the London Stock Exchange Shortly prior to the Administration, on 25 February 2013, trading in the Company's shares was suspended. The Company was subsequently delisted from the London Stock Exchange on 8 March 2013. The Company has approximately 12,801 shareholders, a schedule of which will be provided on request. As far as I am aware none of the Company's directors hold shares in the Company.

Appendix A (continued)

Registered Charges

The Company has one outstanding charge over certain shares in favour of BMS Finance AB Limited created on 18 December 2012 and registered on 27 December 2012, securing all monies due or to become due from the Company to the charge on any account whatsoever under the terms of the aforementioned instrument creating or evidencing the charge

**HIWAVE TECHNOLOGIES PLC
IN ADMINISTRATION**

APPENDIX B

**JOINT ADMINISTRATORS' ABSTRACT
OF RECEIPTS AND PAYMENTS**

**HiWave Technologies plc
(In Administration)**

Joint Administrators' Abstract Of Receipts And Payments

	Statement of Affairs £	From 06/03/2013 To 05/09/2013 £
RECEIPTS		
Investment in UK Subsidiary	Uncertain	99,998 00
Intercompany Debtor	Uncertain	1 00
Investments in Foreign Subsidiaries	Uncertain	1 00
Long Term Debtor	Uncertain	4,915 99
VAT Refund	9,662 00	8,771 38
Rent Deposit	30,050 00	30,050 00
Cash at Bank	4,994 00	4,720 17
Sundry Receipts	N/a	279 23
Bank Interest Gross	N/a	99 44
	<u>44,706 00</u>	<u>148,836 21</u>
PAYMENTS		
Pre-Administration Costs		
Geoffrey Martin & Co - Fees		22,500 00
Geoffrey Martin & Co - Category 1 Disbursements		13 00
Geoffrey Martin & Co - Category 2 Disbursements		29 25
Pitmans LLP - Legal Fees		20,000 00
Post-Administration Costs		
Joint Administrators' Fees		15,000 00
Joint Administrators' Category 1 Disbursements		575 00
Joint Administrators' Category 1 Disbursements - Statutory Advertising		226 11
Joint Administrators' Category 2 Disbursements		177 75
Pitmans LLP - Legal Fees		30,000 00
Pitmans LLP - Legal Disbursements		690 20
Metis Partners LLP - Intellectual Property Valuer's Fees		4,000 00
Public Relations Consultancy Fee		150 00
		<u>93,361 31</u>
BALANCE - 05 September 2013		<u>55,474.90</u>
MADE UP AS FOLLOWS		
VAT Receivable		18,604 25
Floating Current A/c (Interest Bearing)		36,870 65
		<u>55,474.90</u>

**HIWAVE TECHNOLOGIES PLC
IN ADMINISTRATION**

APPENDIX C

ESTIMATED OUTCOME STATEMENT AND NOTES

HiWave Technologies plc - In Administration

Estimated Outcome Statement as at 6 September 2013

	Notes	Statement of Affairs Estimated to Realise £	Receipts and Payments to date £	Anticipated Receipts and Payments £	Estimated Outcome £
Assets Specifically Pledged					
Investment in UK Subsidiary (including deferred payment)	1	Uncertain	1	Uncertain	1
Intercompany Debt - HiWave Technologies (UK) Limited	2	Uncertain	99,998	-	99,998
Deduct BMS Finance AB Limited	2	(400,000)	-	-	-
Total Assets Subject to Fixed Charge		(400,000)	99,999	Uncertain	99,999
Assets Not Specifically Pledged					
Surplus from Fixed Charge b/d		N/a	99,999	-	99,999
Investment in Foreign Subsidiary	3	Uncertain	1	-	1
Investment in Dormant Subsidiaries	4	N/a	-	-	-
Intercompany Debts - Overseas Subsidiaries	5	Uncertain	-	-	-
Long Term Debtor	6	Uncertain	4,916	Uncertain	4,916
VAT Refund	7	9,662	8,771	-	8,771
Rent Deposit	8	30,050	30,050	-	30,050
Prepayments	9	Uncertain	-	-	-
Cash at Bank	10	4,994	4,720	-	4,720
Sundry Receipts	11	N/a	279	-	279
Bank Interest Gross		N/a	99	Uncertain	99
Total Assets Subject to Floating Charge		35,044	148,835	Uncertain	148,835
Pre - Administration Costs Associated with Fixed and Floating Charges					
Geoffrey Martin & Co - Fees	12		22,500	-	22,500
Geoffrey Martin & Co - Category 1 Disbursements	12		13	-	13
Geoffrey Martin & Co - Category 2 Disbursements	12		29	-	29
Pitmans LLP - Legal Fees	12		20,000	-	20,000
			(42,542)	-	(42,542)
Administration Costs					
Joint Administrators' Remuneration	13		15,000	30,000	45,000
Joint Administrators' Category 1 Disbursements	14		801	200	1,001
Joint Administrators' Category 2 Disbursements	14		178	300	478
Pitmans LLP - Legal Fees	15		30,000	12,000	42,000
Pitmans LLP - Legal Disbursements	15		690	3,400	4,090
Barons Financial Services (UK) Limited - Agent's Fees	16		-	-	-
Metis Partners LLP - Intellectual Property Valuer's Fees	17		4,000	-	4,000
Tax Advice	18		-	2,000	2,000
Pension Advice	19		-	4,500	4,500
Public Relations Consultancy Fee			150	-	150
VAT Receivable			18,604	(18,604)	-
			(69,423)	(33,796)	(103,219)
Funds Available For Preferential Creditors			38,870	(33,796)	3,074
Deduct Preferential Creditors	20				-
Assets Available to Unsecured Creditors					3,074
Unsecured Creditors					
Trade and Other Creditors	21	217,052		217,052	
Non Executive Directors Deferred Salary	22	28,807		28,807	
Contingent Claim - Barons Financial Services (UK) Limited	23	85,000		Uncertain	
Accruals	24	112,832		112,832	
		443,691			
Total Unsecured Creditors					(358,691)
Estimated Shortfall to Unsecured Creditors					(355,617)

The attached notes should be read in conjunction with the above statement.

HiWave Technologies plc – In Administration (“the Company”)
Notes to Estimated Outcome Statement as at 5 September 2013

Assets Specifically Pledged

1. Investment in UK Subsidiary

The Company was the sole shareholder of HiWave Technologies (UK) Limited (“HiWave UK”)

The Company’s shares in HiWave UK and the associated investment were sold to GLIF BMS Holdings Limited (“GLIF”) on 18 March 2013. For further details concerning the Company’s shareholding in HiWave UK, the associated intercompany loans and the sale/assignment of these assets to GLIF please refer to section 5 of the Joint Administrators’ Statement and Proposals dated 26 April 2013.

2. Intercompany Debt – HiWave UK

The Company was the sole shareholder of HiWave UK and provided significant funding to this entity. Whilst the majority of the funds passed to HiWave UK by the Company were capitalised on the Company’s balance sheet as an investment, certain funds were accounted for as an intercompany debt on the Company’s balance sheet.

The intercompany debt due to the Company at 6 March 2013 was assigned to GLIF on 18 March 2013. For further details concerning the Company’s shareholding in HiWave UK, the associated intercompany loans and the sale/assignment of these assets to GLIF please refer to Section 5 of the Joint Administrators’ Statement and Proposals dated 26 April 2013.

For details relating to BMS Finance AB Limited, please refer to section 6 of the Joint Administrators’ Statement and Proposals dated 26 April 2013.

Assets Not Specifically Pledged

3. Investment in Foreign Subsidiary

The Company was also the sole shareholder of HiWave (Hong Kong) Limited (“HiWave HK”)

The Company’s shares in HiWave HK were sold to GLIF on 18 March 2013. For further details concerning the Company’s shareholding in HiWave HK and the sale of these shares to GLIF please refer to section 5 of the Joint Administrators’ Statement and Proposals dated 26 April 2013.

4. Shareholdings in Dormant Subsidiaries

The Company is also the sole shareholder of a number of subsidiaries that are either dormant or subject to winding up proceedings. A schedule of these subsidiaries is provided below.

- NXT Limited (Registered in the UK)
- HiWave Inc (Registered in the US)
- HiWave (Japan) Limited – In Liquidation (Registered in Japan)
- Audium Limited (Registered in the UK)
- Human Interface Waveforms Limited (Registered in the UK)

It is anticipated that the Company’s shareholdings in the above companies will have no realisable value.

5. Intercompany Debts – Foreign Subsidiary

Please refer to Paragraph 3.2 of this report.

Appendix C (continued)

6. Long Term Debtor

Please refer to Paragraph 3 3 of this report

7. VAT Refund

Please refer to Paragraph 3 4 of this report

8. Rent Deposit

Please refer to Paragraph 3 5 of this report

9. Prepayments

Please refer to Paragraph 3 6 of this report

10. Cash at Bank

Please refer to Paragraph 3 7 of this report

11. Sundry Receipts

Please refer to Paragraph 3 8 of this report

12. Bank Interest

Please refer to Paragraph 3 9 of this report

Costs of Administration

13. Pre-Administration Costs

For details of professional costs incurred by Geoffrey Martin & Co prior to the Administration please refer to Appendix F of the Joint Administrators' report dated 26 April 2013

14. Joint Administrators' Remuneration

Details of the Joint Administrators' time costs as at 5 September 2013 are provided at Appendix G. It is anticipated that the Joint Administrators' total remuneration in respect of the Administration period is likely to equate to approximately £45,000. This is greater than the initial estimate provided in the Joint Administrators' Statement and Proposals due to the fact that it has now been confirmed that the Company will, subject to an extension being approved by the Court, remain in Administration for the duration of the 24 month period covered by the deferred consideration clauses contained within the sale agreement entered into with GLIF.

For further information concerning the Joint Administrators' decision for the Company to remain in Administration for the entirety of this period please refer to paragraph 10 of the main body of this report.

It should be noted that the Joint Administrators' time costs already exceed the increased balance of £45,000, however, remuneration is expected to be restricted to maximise the return to unsecured creditors.

15. Joint Administrators' Disbursements

Details of the disbursements incurred by the Joint Administrators as at 5 September 2013 are provided at Appendix G.

Appendix C (continued)

Category 1 disbursements relate to expenses that are directly attributable to the case and do not require specific creditor approval before they can be recovered from Administration funds. It is anticipated that the Joint Administrators' total Category 1 disbursements in the Administration will equate to £1,001 and will include expenses such as statutory advertising costs, the Joint Administrators' Case Specific Bond, Companies House search fees and the storage and destruction of records.

Category 2 disbursements require specific authorisation from creditors as they relate to costs which are not specifically identifiable to the case. These are charged in accordance with the firm's charging and disbursement policy which can be found at Appendix D of this report. It is anticipated that the Joint Administrators will incur Category 2 disbursements of approximately £478 during the course of the Administration.

16. Legal Fees and Disbursements

The Joint Administrators engaged Pitmans LLP ("Pitmans") initially to provide legal advice and assistance in relation to their appointment and the sale of the Company's investments and shareholdings in a number of subsidiaries to GLIF. Pitmans have subsequently been instructed by the Joint Administrators to provide advice in respect of the planned extension of the duration of the Administration and will ultimately assist in drawing up an application to Court seeking the extension.

At 5 September 2013 Pitmans had incurred legal fees of £55,845, of which £43,682 was incurred advising the Joint Administrators in connection with their appointment and the sale of the Company's assets, £9,374 was incurred in connection with advice needed in respect of an agreement entered into with Barons Financial Services (UK) Limited and in liaising with the Shareholder Action Group and their solicitors, and £2,789 was incurred in advising the Joint Administrators in respect of the planned extension of the Administration period.

In order to maximise the return to creditors in the Administration, Pitmans agreed to cap their initial fees incurred in respect of the appointment and sale of the Company's assets at £30,000. Pitmans has also agreed to cap its fees in connection with the Barons agreement and liaising with the Shareholder Action Group at £4,000, although this balance had not been discharged as at 5 September 2013. The residual balance of £19,056 relating to these costs has now been written off as irrecoverable.

Of the fees incurred by Pitmans in relation to the planned extension of the Administration period, Pitmans have yet to recover any costs. It is anticipated that Pitmans' total fees in this regard will equate to £8,000.

Pitmans have also incurred Category 1 disbursements of £1,690 which relate to advertising and PR advisors' costs in relation to the delisting of the Company's shares from the London Stock Exchange and Counsel fees in relation to the Administration process and the proposed extension of the Administration period. A total of £690 has been paid to Pitmans in connection with these disbursements.

A total of £1,400 remains outstanding to Pitmans in respect of Counsel fees relating to advice provided in connection with the proposed extension of the duration of the Administration. It is also anticipated that Pitmans will incur further category 1 disbursements of £2,000 relating to Court fees and Counsel fees in connection with the application to extend the duration of the Administration.

17. Agent's Fees

Barons Financial Services (UK) Limited ("Barons") was engaged by the Company in October 2013 to assist with the marketing and sale of the Company's shareholdings and investments in its trading subsidiaries. On appointment, the Joint Administrators entered into a contract with Barons for them to continue to assist with the ongoing marketing of the Company's assets during the Administration period.

Appendix C (continued)

The fee payable to Barons was based on a percentage of the value achieved for the sale of the Company's shareholdings and investments in its trading subsidiaries. It was anticipated in the Joint Administrators Proposals Report that the total fee payable to Barons in respect of the sale would therefore equate to £10,000.

Following the sale, no fee was payable.

18. Intellectual Property Valuer's Fees

Metis Partners LLP ("Metis") were engaged by the Joint Administrators to conduct a valuation of the intellectual property rights owned by HiWave UK. This was critical when establishing the value of the Company's shareholding and investment in HiWave UK. For conducting the valuation Metis has charged a fixed fee of £4,000, which has been discharged in full.

19. Tax Advice

It will be necessary for the Joint Administrators to engage a tax advisor to bring the Company's pre-Administration Corporation Tax affairs up to date and also submit Corporation Tax returns for the Administration period. It is anticipated that the cost of engaging a tax advisor to complete the required returns will equate to approximately £2,000.

20. Pension Advice

There are three pension schemes currently operated by the Company. Due to the Administration these pension schemes will have to be wound down or otherwise transferred to a third party Trustee. It is estimated that the cost of engaging a specialist to wind down / transfer these pension schemes will equate to approximately £4,500.

Creditor Claims

21. Preferential Creditors

Preferential claims in Administration relate to employee wage arrears and outstanding accrued holiday pay. The Company had three employees that were made redundant immediately following the appointment of the Joint Administrators. As anticipated, the employees have not submitted claims to the Joint Administrators.

22. Trade and Other Creditors

The Company's Statement of Affairs as at 6 March 2013 indicates unsecured creditors of £217,052, the largest of which is Mills & Reeve LLP, the Company's former solicitors, with an outstanding liability of £58,951.

23. Non-Executive Directors' Deferred Salary

The Statement of Affairs shows deferred salary of £28,807 as being due to the Company's directors as at the date of Administration. This balance represents the actual amount of deferred salary due to the Non-Executive Directors ("NEDs"). Following a review of the Company's employee records it was established that the NEDs may, under certain circumstances, be entitled to a 100% uplift in their deferred salary in the event that the Company was able to sell its shareholdings in its trading subsidiaries. Whether the directors intend to lodge increased claims remains uncertain, but for the purpose of this report I have continued to assume that inflated claims will not be submitted.

24. Contingent Claim – Barons

Prior to the Administration the Company engaged Barons to assist with the marketing and sale of its shareholdings in its trading subsidiaries. The Contract that the Company entered into with Barons entitled them to a fixed fee of £85,000 regardless of whether a sale was achieved, plus an element of commission based on the consideration obtained. This balance was therefore shown as a contingent claim on the Statement of Affairs as at 6 March 2013.

Appendix C (continued)

Following the Administration the Joint Administrators entered into an agreement with Barons for their continued assistance with the marketing and sale of the Company's shareholdings in its trading subsidiaries. This agreement confirmed that Barons would waive their right to claim in the Administration in exchange for a fee for their continued assistance, paid as a cost of the Administration.

25. Accruals

The Company's Statement of Affairs shows accruals of £112,832 relating mainly to professional costs.

**HIWAVE TECHNOLOGIES PLC
IN ADMINISTRATION**

APPENDIX D

CHARGING AND DISBURSEMENT POLICY

Appendix D

Case Name	HiWave Technologies plc
Court and Number	High Court of Justice, Chancery Division, Companies Court No 1402 of 2013
Office Holders	Peter Hart and James Sleight
Firm	Geoffrey Martin & Co
Address	7-8 Conduit Street, London, W1S 2XF
Telephone	0207 495 1100
Reference	HIWA401/PH/JS/PW/DO
Type of Appointment	Administration
Date of Appointment	6 March 2013

CHARGING AND DISBURSEMENTS POLICY (Combined London & Leeds Offices)

Time Costs

The firm's hourly charge out rates are revised annually from 1 May. The rates currently in use are within the following bands:

	£
Partners and Associates	325 – 400
Manager	220 – 285
Senior Administrator	140 – 250
Junior Administrator and Support Staff	65 – 150

Secretarial and cashiers time is charged to the case and their rates are included within the above hourly rates identified above as appropriate. Time is charged in units of 6 minutes.

Disbursements

A disbursement charge relating to the recovery of overhead costs is levied at the rate of £6.75 per creditor. This sum is drawn at the outset of the case and on each anniversary thereafter and covers printing, postage, stationery, photocopying, telephone and fax usage.

Company Searches and Identity Verifications are charged at cost.

Outsourced printing and/or photocopying will be charged at cost in addition to the above.

Travelling expenses are charged at the rate of 45p per mile.

**HIWAVE TECHNOLOGIES PLC
IN ADMINISTRATION**

APPENDIX E

**JOINT ADMINISTRATORS' POST APPOINTMENT
TIME COSTS ANALYSIS**

SIP 9 - Time & Cost Summary

Period 06/03/13 05/09/13

Time Summary

Classification of work function	Hours					Time Cost (£)	Average hourly rate (£)
	Partner And Associates	Manager	Other Senior Professionals	Assistants & Support Staff	Total Hours		
Administration & Planning	2 30	18 50	0 00	22 70	43 50	8 373 00	192 48
Administrative Setup	0 00	0 00	0 00	2 70	2 70	285 00	105 56
Appointment, Notification / Filing	2 40	7 50	0 00	0 00	9 90	2,751 00	277 88
Case Monitoring	7 10	1 50	0 00	5 50	14 10	3,703 50	262 68
Secretarial / Filing	0 00	0 50	0 00	3 80	4 30	568 00	132 09
Cashier for Non Trading	0 00	0 00	0 00	3 60	3 60	396 00	110 00
Travelling	0 00	1 20	0 00	0 00	1 20	300 00	250 00
Other Statutory matters	0 50	7 60	0 80	29 70	38 60	6 424 00	166 42
Case Strategy	0 00	7 40	0 00	0 00	7 40	1,850 00	250 00
Administration & planning	12 30	44 20	0 80	68 00	125 30	24,650 50	196 73
Investigations	0 00	13 30	0 00	52 80	66 10	11,142 50	168 57
CDDA Reports	0 00	1 50	0 00	6 50	8 00	1,350 00	168 75
Investigations	0 00	14 80	0 00	59 30	74 10	12,492 50	168 59
Ident / Securing & Insuring	0 00	0 00	0 00	1 10	1 10	165 00	150 00
Book Debts	0 00	0 40	0 00	0 00	0 40	100 00	250 00
Other Assets	2 10	6 30	0 00	5 70	14 10	3,196 50	226 70
Going Concern Sale Assets/Business	13 30	12 80	0 00	19 90	46 00	10,823 50	235 29
Shares in Subsidiaries	30 80	0 70	0 00	0 10	31 60	11,432 00	361 77
Realisations of assets	46 20	20 20	0 00	26 80	93 20	25,717 00	275 93
Unsecured Creditors	0 40	6 70	0 40	7 80	15 30	3,043 00	198 89
Employee Matters (Claims)	0 30	0 30	4 60	1 80	7 00	1,178 50	168 36
Statutory Reporting to Creditors	14 00	17 10	0 00	92 90	124 00	22 512 50	181 55
Report / Secured Creditor	1 60	0 00	0 00	0 00	1 60	584 00	365 00
Pension Issues	0 00	0 60	4 40	3 50	8 50	1,379 00	162 24
Shareholders - Communication	7 00	19 80	0 00	35 00	61 80	12 749 00	206 29
Creditors	23 30	44 50	9 40	141 00	218 20	41 446 00	189 95
Total Hours	81 80	123 70	10 20	295 10	510 80	104,306 00	204 20
Total Fees Claimed						15 000 00	

**HiWave Technologies plc – In Administration (“the Company”)
Overview of Joint Administrators’ Time Spent**

I detail below the key areas of work undertaken by the Joint Administrators and their staff in respect of the Administration from the onset of the Administration to the date of this report, being 5 September 2013

Administration and planning

- Liaising with the directors
- Statutory requirements imposed by the Insolvency Act and Rules 1986 and Insolvency bodies
- Administrative setup and filing of all statutory paperwork
- Accounting for receipts and payments in the Administration
- Monitoring the progress of the Administration
- Obtaining open cover insurance
- Collection of Company records
- Liaising with Pitmans LLP and assessment of strategy as to whether the Company should remain in Administration or be moved to Creditors’ Voluntary Liquidation to enable conclusion of certain clause contained within the agreement for the sale of certain of the Company’s assets to GLIF BMS Holdings Limited

Realisation of assets

- Liaising with Barons Financial Services (UK) Limited to determine a strategy for marketing the Company’s shareholdings in its trading subsidiaries
- Liaising with the Company’s accounts and management teams regarding the sale of the Company’s shareholdings in its trading subsidiaries
- Detailed analysis and investigations into the value of the shares held in HiWave Technologies (UK) Limited and HiWave Hong Kong Limited
- Review and analysis of the asset position of HiWave Technologies (UK) Limited
- Liaising with Metis Partners LLP regarding their valuation of the intellectual property owned by HiWave Technologies (UK) Limited
- Discussions with interested parties and the ultimate purchaser of the Company’s shares in HiWave Technologies (UK) Limited and HiWave Hong Kong Limited
- Liaising with Pitmans LLP regarding the sale purchase agreements
- Dealing with the receipt of the sales consideration in respect of the sale of the Company’s shareholdings in its trading subsidiaries
- Liaising with GLIF BMS Holdings Limited regarding the profits and sale proceeds entitlement clauses included in the agreement for the sale of the Company’s shareholdings in HiWave Technologies (UK) Limited and HiWave Hong Kong Limited
- Liaising with HiWave Technologies (UK) Limited and HM Revenue & Customs regarding the recovery of the Company’s pre-Administration VAT refund
- Review of the Company’s non-trading subsidiaries
- Communications with the Company’s bank in respect of the recovery of cash at bank balances
- Dealing with the recovery of the rent deposit
- Dealing with the receipt of a sundry payment of £279 from HiWave Technologies (UK) Limited
- Review of the Company’s prepayments
- Dealing with the receipt of funds from the long term debtor and review of related correspondence regarding anticipated future payments
- Investigating the nature of the prepayments and inter-company debts in establishing whether any equity remains
- Accounting for bank interest that has accrued on the Administration bank account

Creditors

- Dealing with creditor queries and claims, both verbal and written
- Statutory reporting to creditors
- Liaising with Pitmans LLP regarding the rights of secured creditor
- Liaising with Pitmans LLP regarding the Company’s listing on the London Stock Exchange and the Joint Administrators’ resultant obligations

Appendix E (continued)

- De-listing of the Company's shares from the London Stock Exchange
- Liaising with shareholders
- Processing of employee claims following redundancies
- Liaising with the redundancy payments office
- Pension issues
- Liaising with the secured creditor

Investigations

- Analysing Company's records for evidence of intercompany balances and terms of repayment
- Statutory investigations into the affairs of the Company and its officers
- Completion of Directors' Conduct Report in accordance with the Company Directors Disqualification Act 1986
- Dealing with enquires and information provided by creditors and shareholders
- Investigating the accuracy of the Company's Statement of Affairs and comparing the financial statements prepared
- Investigations concerning the Company audited financial statements and prospectus documentation issued prior to the 2010 share issue
- Reviewing the Company's records in order to identify unusual or exceptional items
- Investigations relating to transactions with associated companies and connected persons

Other professional costs of the Administration

Details of professional advisers who have been engaged by the Joint Administrators, and their respective charges, are detailed below

- 1 Pitmans LLP were instructed to advise on all legal aspects arising during the Administration. Pitmans LLP were chosen due to their experienced knowledge of insolvency matters and company legislation. Their charges are incurred on the basis of time properly spent advising on the various issues in this case.
- 2 Barons Financial Services (UK) Limited ("Barons") were instructed to provide assistance in respect of the sale of the Company's shareholdings in its trading subsidiaries. Barons were chosen due to their experience in dealing with such sales, together with their previous experience of the Company resulting from their pre-existing instruction by the Company's directors. Their charges are based on a percentage of realisations achieved from the sale of the Company's interest in its trading subsidiaries.
- 3 Metis Partners LLP were instructed to provide specialist valuation advice in respect of the intellectual property owned by HiWave Technologies (UK) Limited. Metis Partners LLP were chosen due to their experience in dealing with valuations and asset realisations for insolvent companies, specifically in relation to intellectual property rights. Their charge for providing a valuation of the intellectual property owned by HiWave Technologies (UK) Limited was a fixed fee of £4,000.

The level of costs and disbursements incurred by my professional advisors between the onset of the Administration and the date of this report, together with details of any payments made to them in respect of these costs, is given below

Professional Costs

Name	Description	Costs Incurred 06/03/2013 – 05/09/2013 £	Costs Paid 06/03/2013 – 05/09/2013 £	Costs Written Off 06/03/2013 – 05/09/2013 £	Costs outstanding as at 05/09/2013 £
Pitmans LLP	Solicitors	55,845	30,000	19,056	6,789
Barons	Financial Advisor	-	-	-	-
Metis Partners	Specialist Agent	4,000	4,000	-	-
		<u>57,682</u>	<u>34,000</u>	<u>19,056</u>	<u>6,789</u>

Appendix E (continued)

Disbursements

Name	Description	Disbursements Incurred	Disbursements Discharged	Disbursements outstanding as
		06/03/2013 – 05/09/2013 £	06/03/2013 – 05/09/2013 £	at 05/09/2013 £
Pitmans LLP	Solicitors	1,690	690	1,000

There are no other professional advisors who have been engaged to assist the Joint Administrators in respect of the Administration of the Company to date

**HIWAVE TECHNOLOGIES PLC
IN ADMINISTRATION**

APPENDIX F

'A CREDITORS GUIDE TO ADMINISTRATORS' FEES'

A CREDITORS' GUIDE TO ADMINISTRATORS' FEES
ENGLAND AND WALES

1 Introduction

- 1 1 When a company goes into administration the costs of the proceedings are paid out of its assets. The creditors, who hope eventually to recover some of their debts out of the assets, therefore have a direct interest in the level of costs, and in particular the remuneration of the insolvency practitioner appointed to act as administrator. The insolvency legislation recognises this interest by providing mechanisms for creditors to determine the basis of the administrator's fees. This guide is intended to help creditors be aware of their rights under the legislation to approve and monitor fees, explains the basis on which fees are fixed and how creditors can seek information about expenses incurred by the administrator and challenge those they consider to be excessive.

2 The nature of administration

- 2 1 Administration is a procedure which places a company under the control of an insolvency practitioner and the protection of the court with the following objective
- rescuing the company as a going concern, or
 - achieving a better result for the creditors as a whole than would be likely if the company were wound up without first being in administration,

or, if the administrator thinks neither of these objectives is reasonably practicable

- realising property in order to make a distribution to secured or preferential creditors

3 The creditors' committee

- 3 1 The creditors have the right to appoint a committee with a minimum of 3 and a maximum of 5 members. One of the functions of the committee is to determine the basis of the administrator's remuneration. The committee is normally established at the meeting of creditors which the administrator is required to hold within a maximum of 10 weeks from the beginning of the administration to consider his proposals. The administrator must call the first meeting of the committee within 6 weeks of its establishment, and subsequent meetings must be held either at specified dates agreed by the committee, or when a member of the committee asks for one, or when the administrator decides he needs to hold one. The committee has power to summon the administrator to attend before it and provide information about the exercise of his functions.

4 Fixing the administrator's remuneration

- 4 1 The basis for fixing the administrator's remuneration is set out in Rule 2.106 of the Insolvency Rules 1986, which states that it shall be fixed
- as a percentage of the value of the property which the administrator has to deal with,
 - by reference to the time properly given by the administrator and his staff in attending to matters arising in the administration, or
 - as a set amount

Any combination of these bases may be used to fix the remuneration, and different bases may be used for different things done by the administrator. Where the remuneration is fixed as a percentage, different percentages may be used for different things done by the administrator.

It is for the creditors' committee (if there is one) to determine on which of these bases, or combination of bases, the remuneration is to be fixed. Where it is fixed as a percentage, it is for the



committee to determine the percentage or percentages to be applied, and where it is a set amount, to determine that amount. Rule 2.106 says that in arriving at its decision the committee shall have regard to the following matters:

- the complexity (or otherwise) of the case,
- any responsibility of an exceptional kind or degree which falls on the administrator,
- the effectiveness with which the administrator appears to be carrying out, or to have carried out, his duties,
- the value and nature of the property which the administrator has to deal with

4.2 If there is no creditors' committee, or the committee does not make the requisite determination (and provided the circumstances described in paragraph 4.3 do not apply), the administrator's remuneration may be fixed by a resolution of a meeting of creditors having regard to the same matters as apply in the case of the committee. If the remuneration is not fixed in any of these ways, it will be fixed by the court on application by the administrator, but the administrator may not make such an application unless he has first tried to get his remuneration fixed by the committee or creditors as described above, and in any case not later than 18 months after his appointment.

4.3 There are special rules about creditors' resolutions in cases where the administrator has stated in his proposals that the company has insufficient property to enable a distribution to be made to unsecured creditors except out of the reserved fund which may have to be set aside out of floating charge assets.

In this case, if there is no creditors' committee, or the committee does not make the requisite determination, the remuneration may be fixed by the approval of –

- each secured creditor of the company, or
- if the administrator has made or intends to make a distribution to preferential creditors –
 - each secured creditor of the company, and
 - preferential creditors whose debts amount to more than 50% of the preferential debts of the company, disregarding debts of any creditor who does not respond to an invitation to give or withhold approval,

having regard to the same matters as the committee would.

Note that there is no requirement to hold a creditors' meeting in such cases unless a meeting is requisitioned by creditors whose debts amount to at least 10 per cent of the total debts of the company.

4.4 A resolution of creditors may be obtained by correspondence.

5 Review of remuneration

5.1 Where there has been a material and substantial change in circumstances since the basis of the administrator's remuneration was fixed, the administrator may request that it be changed. The request must be made to the same body as initially approved the remuneration, and the same rules apply as to the original approval.

6 Approval of pre-administration costs

6.1 Sometimes the administrator may need to seek approval for the payment of costs in connection with preparatory work incurred before the company went into administration but which remain unpaid. Such costs may relate to work done either by the administrator or by another insolvency practitioner. Details of such costs must be included in the administrator's proposals.

6.2 Where there is a creditors' committee, it is for the committee to determine whether, and to what extent, such costs should be approved for payment. If there is no committee or the committee does not make the necessary determination, or if it does but the administrator, or other insolvency

SIP9**Guide to Administrators' Fees (E & W)**

practitioner who has incurred pre-administration costs, considers the amount agreed to be insufficient, approval may be given by a meeting of creditors. Where the circumstances described in paragraph 4.3 apply, the determination may be made by the same creditors as approve the administrator's remuneration.

- 6.3 The administrator must convene a meeting of the committee or the creditors for the purposes of approving the payment of pre-administration costs if requested to do so by another insolvency practitioner who has incurred such costs. If there is no determination under these provisions, or if there is but the administrator or other insolvency practitioner considers the amount agreed to be insufficient, the administrator may apply to the court for a determination.

7 What information should be provided by the administrator?

7.1 When seeking remuneration approval

- 7.1.1 When seeking agreement to his fees the administrator should provide sufficient supporting information to enable the committee or the creditors to form a judgement as to whether the proposed fee is reasonable having regard to all the circumstances of the case. The nature and extent of the supporting information which should be provided will depend on

- the nature of the approval being sought,
- the stage during the administration of the case at which it is being sought, and
- the size and complexity of the case

- 7.1.2 Where, at any creditors' or committee meeting, the administrator seeks agreement to the terms on which he is to be remunerated, he should provide the meeting with details of the charge-out rates of all grades of staff, including principals, which are likely to be involved on the case.

- 7.1.3 Where the administrator seeks agreement to his fees during the course of the administration, he should always provide an up to date receipts and payments account. Where the proposed fee is based on time costs the administrator should disclose to the committee or the creditors the time spent and the charge-out value in the particular case, together with, where appropriate, such additional information as may reasonably be required having regard to the size and complexity of the case. The additional information should comprise a sufficient explanation of what the administrator has achieved and how it was achieved to enable the value of the exercise to be assessed (whilst recognising that the administrator must fulfil certain statutory obligations that might be seen to bring no added value for creditors) and to establish that the time has been properly spent on the case. That assessment will need to be made having regard to the time spent and the rates at which that time was charged, bearing in mind the factors set out in paragraph 4.1 above. To enable this assessment to be carried out it may be necessary for the administrator to provide an analysis of the time spent on the case by type of activity and grade of staff. The degree of detail will depend on the circumstances of the case, but it will be helpful to be aware of the professional guidance which has been given to insolvency practitioners on this subject. The guidance suggests the following areas of activity as a basis for the analysis of time spent:

- Administration and planning
- Investigations
- Realisation of assets
- Trading
- Creditors
- Any other case-specific matters

The following categories are suggested as a basis for analysis by grade of staff

- Partner
- Manager
- Other senior professionals
- Assistants and support staff



The explanation of what has been done can be expected to include an outline of the nature of the assignment and the administrator's own initial assessment, including the anticipated return to creditors. To the extent applicable it should also explain

- Any significant aspects of the case, particularly those that affect the amount of time spent
- The reasons for subsequent changes in strategy
- Any comments on any figures in the summary of time spent accompanying the request the administrator wishes to make
- The steps taken to establish the views of creditors, particularly in relation to agreeing the strategy for the assignment, budgeting, time recording, fee drawing or fee agreement
- Any existing agreement about fees
- Details of how other professionals, including subcontractors, were chosen, how they were contracted to be paid, and what steps have been taken to review their fees

It should be borne in mind that the degree of analysis and form of presentation should be proportionate to the size and complexity of the case. In smaller cases not all categories of activity will always be relevant, whilst further analysis may be necessary in larger cases.

- 7.1.4 Where the fee is charged on a percentage basis the administrator should provide details of any work which has been or is intended to be sub-contracted out which would normally be undertaken directly by an administrator or his staff

7.2 After remuneration approval

Where a resolution fixing the basis of fees is passed at any creditors' meeting held before he has substantially completed his functions, the administrator should notify the creditors of the details of the resolution in his next report or circular to them. In all subsequent reports to creditors the administrator should specify the amount of remuneration he has drawn in accordance with the resolution (see further paragraph 8.1 below). Where the fee is based on time costs he should also provide details of the time spent and charge-out value to date and any material changes in the rates charged for the various grades since the resolution was first passed. He should also provide such additional information as may be required in accordance with the principles set out in paragraph 7.1.3. Where the fee is charged on a percentage basis the administrator should provide the details set out in paragraph 7.1.4 above regarding work which has been sub-contracted out.

7.3 Disbursements and other expenses

There is no statutory requirement for the committee or the creditors to approve the drawing of expenses or disbursements, but there is provision for the creditors to challenge them, as described below. Professional guidance issued to insolvency practitioners requires that, where the administrator proposes to recover costs which, whilst being in the nature of expenses or disbursements, may include an element of shared or allocated costs (such as room hire, document storage or communication facilities provided by the administrator's own firm), they must be disclosed and be authorised by those responsible for approving his remuneration. Such expenses must be directly incurred on the case and subject to a reasonable method of calculation and allocation.

8 Progress reports and requests for further information

- 8.1 The administrator is required to send a progress report to creditors at 6-monthly intervals. The report must include

- details of the basis fixed for the remuneration of the administrator (or if not fixed at the date of the report, the steps taken during the period of the report to fix it),
- if the basis has been fixed, the remuneration charged during the period of the report, irrespective of whether it was actually paid during that period (except where it is fixed as a set amount, in which case it may be shown as that amount without any apportionment for the period of the report),
- if the report is the first to be made after the basis has been fixed, the remuneration charged during the periods covered by the previous reports, together with a description of the work done

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during those periods, irrespective of whether payment was actually made during the period of the report,

- a statement of the expenses incurred by the administrator during the period of the report, irrespective of whether payment was actually made during that period,
- the date of approval of any pre-administration costs and the amount approved,
- a statement of the creditors' rights to request further information, as explained in paragraph 8.2, and their right to challenge the administrator's remuneration and expenses

- 8.2 Within 21 days of receipt of a progress report a creditor may request the administrator to provide further information about the remuneration and expenses (other than pre-administration costs) set out in the report. A request must be in writing, and may be made either by a secured creditor, or by an unsecured creditor with the concurrence of at least 5% in value of unsecured creditors (including himself) or the permission of the court

- 8.3 The administrator must provide the requested information within 14 days, unless he considers that
- the time and cost involved in preparing the information would be excessive, or
 - disclosure would be prejudicial to the conduct of the administration or might be expected to lead to violence against any person, or
 - the administrator is subject to an obligation of confidentiality in relation to the information requested,

in which case he must give the reasons for not providing the information

Any creditor may apply to the court within 21 days of the administrator's refusal to provide the requested information, or the expiry of the 14 days time limit for the provision of the information

9 Provision of information – additional requirements

The administrator must provide certain information about time spent on a case, free of charge, upon request by any creditor, director or shareholder of the company

The information which must be provided is –

- the total number of hours spent on the case by the administrator or staff assigned to the case,
- for each grade of staff, the average hourly rate at which they are charged out,
- the number of hours spent by each grade of staff in the relevant period

The period for which the information must be provided is the period from appointment to the end of the most recent period of six months reckoned from the date of the administrator's appointment, or where he has vacated office, the date that he vacated office

The information must be provided within 28 days of receipt of the request by the administrator, and requests must be made within two years from vacation of office

10 What if a creditor is dissatisfied?

- 10.1 If a creditor believes that the administrator's remuneration is too high, the basis is inappropriate, or the expenses incurred by the administrator are in all the circumstances excessive he may, provided certain conditions are met, apply to the court

- 10.2 Application may be made to the court by any secured creditor, or by any unsecured creditor provided at least 10 per cent in value of unsecured creditors (including himself) agree, or he has the permission of the court. Any such application must be made within 8 weeks of the applicant receiving the administrator's progress report in which the charging of the remuneration or incurring of the expenses in question is first reported (see paragraph 8.1 above). If the court does not dismiss the application (which it may if it considers that insufficient cause is shown) the applicant must give the administrator a copy of the application and supporting evidence at least 14 days before the hearing



- 10 3 If the court considers the application well founded, it may order that the remuneration be reduced, the basis be changed, or the expenses be disallowed or repaid. Unless the court orders otherwise, the costs of the application must be paid by the applicant and not as an expense of the administration.

11 What if the administrator is dissatisfied?

- 11 1 If the administrator considers that the remuneration fixed by the creditors' committee is insufficient or that the basis used to fix it is inappropriate he may request that the amount or rate be increased, or the basis changed, by resolution of the creditors. If he considers that the remuneration fixed by the committee or the creditors is insufficient or that the basis used to fix it is inappropriate, he may apply to the court for the amount or rate to be increased or the basis changed. If he decides to apply to the court he must give at least 14 days' notice to the members of the creditors' committee and the committee may nominate one or more of its members to appear or be represented on the application. If there is no committee, the administrator's notice of his application must be sent to such of the company's creditors as the court may direct, and they may nominate one or more of their number to appear or be represented. The court may order the costs to be paid as an expense of the administration.

12 Other matters relating to remuneration

- 12 1 Where there are joint administrators it is for them to agree between themselves how the remuneration payable should be apportioned. Any dispute arising between them may be referred to the court, the creditors' committee or a meeting of creditors.
- 12 2 If the administrator is a solicitor and employs his own firm to act on behalf of the company, profit costs may not be paid unless authorised by the creditors' committee, the creditors or the court.
- 12 3 If a new administrator is appointed in place of another, any determination, resolution or court order which was in effect immediately before the replacement continues to have effect in relation to the remuneration of the new administrator until a further determination, resolution or court order is made.
- 12 4 Where the basis of the remuneration is a set amount, and the administrator ceases to act before the time has elapsed or the work has been completed for which the amount was set, application may be made for a determination of the amount that should be paid to the outgoing administrator. The application must be made to the same body as approved the remuneration. Where the outgoing administrator and the incoming administrator are from the same firm, they will usually agree the apportionment between them.

13 Effective date

This guide applies where a company enters administration on or after 6 April 2010, except where

- the application for an administration order was made before that date, or
- where the administration was preceded by a liquidation which commenced before that date