

**ID COURT OF THE CAYMAN ISLANDS****FINANCIAL SERVICES DIVISION****CAUSE NO: FSD OF 2023 ()****IN THE MATTER OF THE COMPANIES ACT****AND IN THE MATTER OF CARBON HOLDINGS LIMITED**

PETITION FOR APPOINTMENT OF RESTRUCTURING OFFICERS

To the Grand Court

The humble petition of Carbon Holdings Limited (**Company**) shows that:

The Company

1 The Company was incorporated as an exempted company with limited liability on 10 June 2008 under the laws of the Cayman Islands with registered number 212200. The Company's registered office is Maples Corporate Services Limited, Ugland House, South Church Street, George Town, P.O. Box 309, Grand Cayman, KY1-1104, Cayman Islands.

The Company's business

2 The Company is the holding company of a group of companies, referred to herein as the **Group**. Through the Group the Company carries on business as a midstream and downstream petrochemical and process industrial plant company.

- 3 The principal business of the Group is the ownership, management and operation of petrochemical projects in the Suez region of Egypt. Through these operations the Group employs over 1000 employees.
- 4 The Company's principal current liabilities arise from:
 - (a) Repayment obligations arising under facility agreements extended to the Company for the purposes of financing the operations of the Group (**Facility Debt**); and
 - (b) An arbitral award handed down on 26 May 2022 (**Award**) in favour of Gulfvin Investments Ltd (**Gulfvin**) against *inter alia* the Company.

Summary of basis for the appointment of restructuring officers

- 5 The Company is presently unable to satisfy the Facility Debt from available cash. The Company has sufficient funds available to satisfy the Award in Egyptian Pounds; however, Gulfvin has indicated that it is unable to accept satisfaction of the Award in Egyptian Pounds. The Company is taking steps to have the Egyptian Pounds converted to US Dollars.
- 6 On 1 July 2022 Gulfvin served on the Company a statutory demand claiming payment of the Award plus interest accrued as at the date of the demand, and costs (**Gulfvin Claim**). As at the date of this Petition the Gulfvin Claim remains unpaid and unsatisfied.
- 7 On the basis of the foregoing the Company is unable to pay its debts within the meaning of Section 93 of the Companies Act (as revised) (**Act**).

- 8 The Board of Directors of the Company is of the considered view that its financial obligations can be successfully restructured to manage the Company's current liquidity issues for the reasons that:
- (a) Together with professional advisors retained by the Company, the Company has negotiated a compromise in principle with creditors holding the Facility Debt, representing approximately 97% of the total current liabilities of the Company (**CHL Creditors**);
 - (b) the Company has funds available in Egyptian Pounds in excess of the Award and is taking steps to have the Egyptian Pounds converted to US Dollars in order to satisfy the Award in full
 - (c) the Company thereafter intends to implement the in-principle agreement reached with the CHL Creditors.
- 9 The Board of Directors of the Company is also of the view and that it is in the best interests of the Company that restructuring officers be appointed in order that the Company may restructure its current liabilities and continue as a going concern.

Nominated restructuring officers

- 10 In the premises the Company seeks the appointment of:
- (a) Angela Barkhouse of Quantuma (Cayman) Limited, Suite N404, Flagship Building, 142 Seafarers Way, George Town, Grand Cayman, an insolvency practitioner qualified in the Cayman Islands and the Dubai International Financial Centre, and

(b) Luke Furler of Quantuma (Singapore) Pte Limited, 137 Amoy Street, 02-03 Far East Square, 049965 Singapore an insolvency practitioner qualified in Singapore and the Dubai International Financial Centre,

to act jointly and severally as Restructuring Officers of the Company, pursuant to Section 91B of the Companies Act, to *inter alia*:

- (i) assist the Company in discharging the Gulfvin Claim;
- (ii) allow sufficient time for funds to settle the Gulfvin Claim to be realised outside of the Group; and
- (iii) assist the Company in implementing the CHL Restructuring.

Your petitioner therefore humbly prays that:

- 1 Angela Barkhouse of Quantuma (Cayman) Limited, Suite N404, Flagship Building, 142 Seafarers Way, George Town, Grand Cayman, and Luke Furler of Quantuma (Singapore) Pte Limited, 137 Amoy Street, 02-03 Far East Square, 049965 Singapore be appointed to act jointly and severally as Restructuring Officers of the Company, pursuant to Section 91B of the Companies Act.
- 2 The powers of the Restructuring Officers appointed pursuant to paragraph 1 above shall be limited to doing all things necessary and incidental to assisting the board of directors (**Board**) of the Company in developing, proposing and implementing a restructuring of the Company's indebtedness, with a view to making arrangements with the Company's creditors (or any class thereof), including (without limitation) by way of: consensual arrangements; compromises or arrangements by way of a scheme of arrangement

pursuant to sections 86 or 911 of the Companies Act; or any other law of a foreign country (**Restructuring Proposals**).

- 3 The Restructuring Officers shall not be required to give security for their appointment.
- 4 For the purposes set out in paragraph 3 above and without prejudice to the powers retained by the Board pursuant to paragraphs 12 and 14 below, until further Order, the Restructuring Officers are authorised to exercise jointly and severally, within and outside of the Cayman Islands, and without further sanction of the Court, the following powers:
 - 4.1 if so advised, to seek recognition of these proceedings and their appointment as Restructuring Officers in any other jurisdiction, including, without limitation: The United Kingdom, United Arab Emirate of Dubai and Egypt, together with such other relief as the Restructuring Officers may consider necessary for the proper exercise of their functions within those jurisdictions, and to take steps arising in connection therewith that the Restructuring Officers may consider appropriate;
 - 4.2 to do all things necessary to implement the Restructuring Proposals in consultation with the Board, and under the supervision of this honourable Court;
 - 4.3 review the financial position of the Company with a view to assessing the viability of the Restructuring Proposals;
 - 4.4 to engage with creditors and contributories of the Company to determine the continued viability of the Restructuring Proposals;
 - 4.5 to deal with all questions in any way relating to or affecting the assets of the Company or the Restructuring Proposals;

- 4.6 to monitor, oversee and supervise the Board, including attending any Board meetings as an observer, with a view to the continuation of the business of the Company under the control of the Board pending the implementation of the Restructuring Proposals;
- 4.7 to request and receive from third parties documents and information concerning the Company and its promotion, formation, business dealings, accounts, assets, liabilities or affairs;
- 4.8 to act in the name and on behalf of the Company, and execute all agreements, deeds, receipts and other documents and to use the Company seal where necessary in furtherance of the Restructuring Proposals;
- 4.9 to retain attorneys and professional advisors, in the Cayman Islands, the United Arab Emirates of Dubai, Egypt and elsewhere, as the Restructuring Officers may consider necessary to advise and assist them in the performance of their duties and to remunerate them for their reasonable fees and expenses out of the assets of the Company as an expense properly incurred during the terms of the Restructuring Officers;
- 4.10 to liaise with the Company's legal and financial advisors and to remunerate them for their reasonable fees and expenses out of the assets of the Company as an expense properly incurred during the term of the Restructuring Officers;
- 4.11 to open bank accounts on behalf of the Company for the purpose of paying the costs and expenses of the Restructuring Proposals, should the Restructuring Officers consider it necessary and appropriate to receive funds for the purpose of payment the costs and expenses of the Restructuring Proposals;

- 4.12 to communicate with regulatory bodies, and review, approve and carry out any necessary filings therewith as appropriate, including, without limitation, the Cayman Islands Registrar of Companies, the Financial Reporting Authority, and the Director of Public Prosecutions in the name and on behalf of the Company;
 - 4.13 to approve payments to creditors which may have the effect of preferring such trade creditors, in order to minimise the interruption to the day-to-day activities of the Company;
 - 4.14 to engage staff (whether or not as employees of the Company and whether located in the Cayman islands or elsewhere) to assist them in the performance of their duties for the purpose of the proceedings herein and to remunerate them out of the assets of the Company as an expense of the restructuring process;
 - 4.15 to authorise the Board to exercise such of the above powers relating to the Company on such terms as the Restructuring Officers consider fit;
 - 4.16 to take such steps as the Restructuring Officers may consider necessary and appropriate in respect of the winding up proceedings before this honourable Court under Cause numbers FSD 218 of 2022 (DDJ) and 219 of 2022 (DDJ); and
 - 4.17 to do all other things necessary and incidental to the exercise of the powers set out above.
- 5 The Restructuring Officers are directed:
- 5.1 to the extent practicable in the circumstances, discuss and consult with the Board (or any relevant sub-committee thereof) any exercise of the powers conferred on

them pursuant to this Order in relation to any decision made by them with respect to material matters concerning the Restructuring Proposals;

- 5.2 to notify all known creditors and shareholders of the Company of their appointment in such manner as the Restructuring Officers consider appropriate;
- 5.3 subject to paragraph 5.4 below, within 28 days of their appointment (or as otherwise directed by this Court) to file with this Court and then send to every creditor and contributory of the Company a report on the conduct of the restructuring process (**RO Report**) in accordance with Companies Winding Up Rules (2018 as amended) O1A r.8;
- 5.4 not to disclose in the Report any confidential information of the Company or other person (natural or non-natural), nor make sure disclosure that would place the Company in breach of any obligation of confidentiality; nor disclose information that would otherwise be damaging to the Company;
- 5.5 Subject to paragraph 5.4 (above), the RO Report shall include details of:
 - (a) The steps taken in developing and /or implementing the Restructuring Proposals and the further steps intended to be taken in connection with the Restructuring Proposals generally;
 - (b) The financial position of the Company at the latest practicable date;
 - (c) The work done by or on behalf of the Restructuring Officers and the remuneration claimed in connection with that work; and

- (d) Such other information as is required in the discretion of the Restructuring Officers to provide the contributories and creditors with a proper understanding of the Company's affairs, financial position and Restructuring Proposals.

6 For the avoidance of doubt:

6.1 for so long as the Restructuring Officers are appointed to the Company, pursuant to Section 91G of the Companies Act, no suit, action or other proceeding, save for criminal proceedings, shall be proceeded with or commenced against the Company in any jurisdiction except with the leave of the Court and subject to such terms as the Court may impose.

6.2 no payment or other disposition of the Company's property made or effected by or with the authority or approval of the Restructuring Officers in carrying out their duties and functions and in the exercise of their powers under this Order shall be avoided by virtue of the provisions of section 99 of the Companies Act

6.3 the Restructuring Officers are not empowered to do anything which interferes with the rights of any receiver over any shares in or assets of any immediate or indirect subsidiary of the Company.

7 Notwithstanding section 99 of the Companies Act the Company shall be permitted to continue to operate bank accounts in its name, and the Company shall be permitted to register the transfer of fully paid up shares in the Company and the Company's shares may continue to be traded in the same manner as they were traded immediately before the making of this Order.

- 8 Notwithstanding any provisions of the Company's Memorandum and Articles of Association, and for so long as the Restructuring Officers are appointed:
- 8.1 any change of the members of the Board and the members of the Board's sub-committees, other than by the resolution of shareholders or by resignation, shall be approved by the Restructuring Officers before such change becomes effective, provided that the Restructuring Officers shall not unreasonably withhold their approval; and
 - 8.2 No new shares shall be issued nor shall any rights attaching to any shares be altered without the prior approval of the Restructuring Officers.
- 9 In the event that a winding-up order is made against the Company, any fees and expenses of the Restructuring Officers, including all costs, charges and expenses of any attorneys and all other agents, managers, accountants and other persons that they may employ, which are payable in accordance with the terms of the orders which may be made by this Court, and which are outstanding at the date of the winding-up order, shall be treated as fees and expenses properly incurred in preserving, realising or getting in the assets of the Company for the purposes of Order 20 of the Companies Winding Up Rules (2018, as amended), subject to any further order that the Court might make.
- 10 Save as specifically set out herein and until further order, the Board shall retain all powers of management conferred upon it by the Company immediately prior to the date of this Order, subject to the Restructuring Officers' oversight and monitoring of the exercise of such powers in relation to matters related to the ordinary course of business, and in relation to matters outside of the ordinary course of business of the Company, granting prior approval of the exercise of such powers.

- 11 In the event that the Restructuring Officers and the Board cannot agree upon a proposed course of action outside the ordinary course of the Company's business, the Restructuring Officers and the Board shall each have liberty to apply to the Court for directions.
- 12 Specifically, and without limitation to the foregoing, the Board shall continue to retain the following powers:
 - 12.1 to continue to conduct the ordinary, day-to-day, business of the Company, and its direct and indirect subsidiaries including for the avoidance of doubt the hiring and firing of employees;
 - 12.2 to continue to operate bank accounts of the Company in the ordinary course of the Company's business; and
 - 12.3 subject to the approval and consent of the Restructuring Officers, to open and close bank accounts on behalf of the Company.
- 13 The Board shall be directed to:
 - 13.1 assist the Restructuring Officers in the discharge of their functions and shall within 3 business days of a request made by or on behalf of the Restructuring Officers, provide the Restructuring Officers (including their employees and agents) with such information as the Restructuring Officers may reasonably require in order to properly discharge their powers and functions as Restructuring Officers and as officers of this Court; and
 - 13.2 provide the Restructuring Officers with advance notice (being at least 24 hours) of and all relevant and necessary materials for all meetings of the

Board, and any sub-committees of the Board as the Restructuring Officers may reasonably require and / or request in advance of such meetings.

- 14 The remuneration and expenses of the Restructuring Officers, including the expenses associated with the exercise of their powers, shall be paid out of the assets of the Company subject to approval of the Court on the application of the Restructuring Officers which may be made *ex parte*.
- 15 The Restructuring Officers do have liberty to apply.
- 16 A case management conference be scheduled for the purpose of this honourable Court being apprised of the progress made with respect to the formulation of the Restructuring Proposals, or any one of them.
- 17 The costs of this application shall be paid out of the assets of the Company.

AND your petitioner will ever pray etc.

Dated this 10th day of January 2023



COLLAS CRILL

Attorneys-at-Law for the Company

NOTICE OF HEARING

TAKE NOTICE THAT the hearing of this petition will take place at the Law Courts, George Town, Grand Cayman, on _____ at _____ am/pm.

Any correspondence or communication with the Court relating to the hearing of this petition should be addressed to the Registrar of the Financial Services Division of the Grand Court at PO Box 495, Grand Cayman, KY1- 1106, telephone 345 949 4296.