



**IN THE GRAND COURT OF THE CAYMAN ISLANDS  
FINANCIAL SERVICES DIVISION**

**CAUSE NO: FSD OF 2023 ( )**

**IN THE MATTER OF THE COMPANIES ACT (2023 REVISION)  
AND IN THE MATTER OF PCH INTERNATIONAL HOLDINGS**

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**WINDING UP PETITION**

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**To the Grand Court**

The humble petition of **Pacento 2 Limited**, of 39 Mdina Road, Attard, Malta (the "**Petitioner**"), shows that:

**Introduction**

- 1 The Petitioner is a creditor of PCH International Holdings (the "**Company**"), an exempted limited company incorporated under the laws of the Cayman Islands on 12 April 2011 with registration number 254736. The registered office of the Company is located at Intertrust Corporate Services (Cayman) Limited, One Nexus Way, Camana Bay, Grand Cayman, KY1-9005, Cayman Islands.
- 2 The Company is an investment holding company that is engaged in the business of product design engineering and development services as well as manufacturing and distribution services primarily in Asia, Europe and North America.

- 3 By a Cayman Islands law governed convertible promissory note dated 26 October 2021, for valuable consideration, the Petitioner loaned to the Company the principal sum of US\$2,500,000 (the "**Note**") with interest payable thereon.
- 4 The Note matured on 23 October 2023 but the Company failed to make payment to the Petitioner of the principal and interest.
- 5 The Petitioner served a statutory demand on the Company on 28 November 2023 ("**Statutory Demand**") and that demand remains unsatisfied.
- 6 The Petitioner is therefore a creditor of the Company in the total sum of US\$2,761,301.37 (being the principal and interest due under the Note as of the date of the Statutory Demand) ("**Debt**").
- 7 The Petitioner seeks the winding up of the Company pursuant to section 92(d) of the Companies Act (2023 Revision) (the "**Companies Act**") on the ground that the Company is unable to pay its debts.

#### **The Petitioner**

- 8 The Petitioner is a company incorporated in Malta with registration number C99110.

#### **The Note**

- 9 The Note is one of a series of separate convertible promissory notes issued pursuant to a Cayman Islands law governed subordinated convertible note purchase agreement dated 5 August 2021 between the Company (as the issuer), the Petitioner (as a purchaser) and other parties who purchased notes issued by the Company thereunder (the "**Purchase**").

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**Agreement**"). Section 1(a) of the Purchase Agreement provides that each note is a "separate agreement".

- 10 Pursuant to opening section of the Note, starting from 26 October 2021, interest shall accrue on the unpaid principal amount at a rate of 5% per annum, computed as simple interest on the basis of a year of 365 days.
- 11 By section 1(a) of the Note, the maturity date of the Note shall be 26 October 2023 (the "**Maturity Date**"), which may be extended by agreement of the parties. The only parties to the Note are the Petitioner and the Company. At no time prior to 26 October 2023 (or any time thereafter) did the Petitioner and the Company enter into any agreement to extend the Maturity Date.
- 12 Also by section 1(a) of the Note, the principal and any accrued but unpaid interest under the Note shall be due and payable on the Maturity Date, unless the Petitioner has previously exercised its rights under section 2(a) of the Note to convert the outstanding principal and any accrued but unpaid interest into equity securities in the Company in accordance with the terms of the Note. At no time did the Petitioner exercise said conversion rights.

### **Maturity of the Note**

- 13 From 26 October 2021 to 26 October 2023, the Company made no repayments to the Petitioner of the principal or accrued interest under the Note.
- 14 On 26 October 2023, the Maturity Date occurred and the principal amount and all accrued interest under the Note became immediately due and payable by the Company to the

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Petitioner. Interest continues to accrue on the unpaid principal amount on a daily basis in accordance with the terms of the Note.

### Written demand for payment

- 15 On 1 November 2023, the Petitioner delivered a letter to the Company demanding that the Company pay the amount of US\$2,750,000, being the principal and accrued interest due and payable as of 26 October 2023, by no later than 2pm Dublin time on 2 November 2023.
- 16 The Company failed to pay the sum of US\$2,750,000 (or any part thereof) to the Petitioner on or before 2pm Dublin time on 2 November 2023 (or any time thereafter).

### The Statutory Demand

- 17 On 28 November 2023, the Petitioner served the Statutory Demand on the Company at its registered office pursuant to section 93(a) of the Companies Act.
- 18 The Statutory Demand demanded payment of the Debt, consisting of:
- 18.1 US\$2,500,000 in outstanding principal; and
- 18.2 US\$261,301.37<sup>1</sup> in accrued interest (i.e. at 5% per annum accruing daily) on the outstanding principal from 26 October 2021 up to the date of the Statutory Demand.

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<sup>1</sup> The sum of 1) US\$2,500,000 x 5% x 2 = US\$250,000, accrued from 26 October 2021 to 26 October 2023 and 2) US\$2,500,000 x 5% x 33 / 365 = US\$11,301.37, accrued from 26 October 2023 to the date of the Statutory Demand.

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- 19 By the Statutory Demand, the Petitioner reserved the right to demand from the Company such further sums (and/or file a proof of debt in any liquidation of the Company that includes such further sums) as may be due and owing under the Note and/or the Purchase Agreement as at the date thereof or which may become due and owing thereunder at any time thereafter.
- 20 Pursuant to Order 2, rule 2(6) of the Companies Winding Up Rules (As Revised), the Statutory Demand included a statement that if payment of the Debt was not made within 21 days of the date upon which it was served on the Company's registered office, the Company would be deemed to be insolvent and a winding up petition may be presented against it in accordance with section 92(d) of the Companies Act.
- 21 The deadline for the payment of the Statutory Demand was 19 December 2023. The Company has failed to satisfy the Statutory Demand, or any portion of it by 19 December 2023.
- 22 As at the date of this Petition, the Company has failed to make any payments in satisfaction of the Debt.

**Grounds: the Company is unable to pay its debts**

- 23 The Petitioner seeks the making of a winding up order against the Company on the ground set out in section 93(a) of the Companies Act, that the Company is unable to pay its debts on the

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basis that the Company has failed to satisfy the Statutory Demand upon expiry of the 21 day period following service of the Statutory Demand.

- 24 Further and/or alternatively, the Company's failure to pay the principal and all accrued interest owing under the Note when it fell due and payable on 26 October 2023 proves that the Company is unable to pay its debts pursuant to section 93(c) of the Companies Act.
- 25 Accordingly, the Company may be wound up by this honourable Court pursuant to section 92(d) of the Companies Act on the basis that it is unable to pay its debts.

### **Relief sought**

26 In the premises:

26.1 The Petitioner is a creditor of the Company and has standing to present this petition under section 94(1)(b) of the Companies Act; and

26.2 The Company is unable to pay its debts pursuant to section 92(d) of the Companies Act and is therefore insolvent and should be wound up.

27 The Petitioner nominates Jeffrey Stower and Neema Griffin of Teneo Cayman Limited, Ground Floor, Harbour Place, 103 South Church Street, PO Box 10245, George Town, Grand Cayman, KY1-1003, Cayman Islands for appointment as joint official liquidators of the Company.

### **Prayer**

Your Petitioner therefore humbly prays that:

(1) The Company be wound up by the Court pursuant to section 92(d) of the Companies Act.

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- (2) Jeffrey Stower and Neema Griffin of Teneo Cayman Limited, Ground Floor, Harbour Place, 103 South Church Street, PO Box 10245, George Town, Grand Cayman, KY1-1003, Cayman Islands be appointed as joint official liquidators of the Company ("**JOLs**").
- (3) The JOLs shall not be required to give security for their appointment.
- (4) The JOLs have the power to act jointly and severally in their capacity as liquidators of the Company.
- (5) The JOLs be authorised to take any such action as may be necessary or desirable to obtain recognition of the official liquidation of the Company and/or their appointment in any other relevant jurisdiction and to make applications to the courts of such jurisdictions for that purpose.
- (6) The JOLs shall have the power to engage staff (whether or not as employees of the Company) to assist the JOLs in the performance of their functions.
- (7) The JOLs be at liberty to appoint attorneys, counsel and professional advisors, whether in the Cayman Islands or elsewhere, as they may consider necessary to advise and assist them in the performance of their duties in accordance with the Order 25 of the Companies Winding Up Rules (As Revised) ("**CWR**").
- (8) No disposition of the Company's property by, or with the authority of, the JOLs in carrying out their duties and functions and exercise of their power under this Order shall be voided by virtue of section 99 of the Companies Act.

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- (9) The JOLs' remuneration and expenses be paid out of the assets of the Company subject to and in accordance with Part III of the Insolvency Practitioner's Regulations 2018 (as amended) and Order 20 of the CWR.
- (10) The JOLs be at liberty to meet all disbursements reasonably incurred in connection with the performance of their duties and, for the avoidance of doubt, all such payments shall be made as and when they fall due out of the assets of the Company as an expense of the liquidation.
- (11) The costs of the Petitioner arising out of and incidental to the Petition be paid out of the assets of the Company as an expense of the liquidation, such costs to be taxed if not agreed with the JOLs.
- (12) The JOLs be at liberty to apply generally.
- (13) Such further or other relief be granted as the Court considers appropriate.

AND your Petitioner will ever pray etc.

Dated the 20<sup>th</sup> day of December 2023.

Filed the 20<sup>th</sup> day of December 2023.



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Maples and Calder (Cayman) LLP

Attorneys-at-Law for the Petitioner

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**NOTE:** This petition is intended to be served on PCH International Holdings at its registered office of Intertrust Corporate Services (Cayman) Limited, One Nexus Way, Camana Bay, Grand Cayman, KY1-9005, Cayman Islands

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**NOTICE OF HEARING**

TAKE NOTICE THAT the hearing of this petition will take place at the Law Courts, George Town, Grand Cayman, on 2023 at .

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.

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