

APPENDIX
COMPANY VOLUNTARY ARRANGEMENT
STANDARD CONDITIONS
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1 INTERPRETATION

The following interpretations shall apply:-

These Conditions are an integral part of the Proposal to which they are appended and should be read in conjunction with it. These Conditions are specifically designed to provide for areas where the Insolvency Act and Rules 1986 (as amended) do not make specific or sufficient provision. Should there be, in any respect, any conflict or ambiguity between the Proposal and these Conditions, then the Proposal shall prevail.

Where the CVA is co-dependent upon the Proposal of any other Company, then these Conditions shall apply to all such Proposals.

2 DEFINITIONS

In the Proposal and these Conditions, except where the context otherwise demands, references to the masculine shall include references to the feminine, and:-

“the Act” means the Insolvency Act 1986 (as amended)

“the Rules” means the Insolvency Rules 1986 (as amended);

“the Company” means the applicant for a CVA, acting by its directors where the context so provides

“We, us, the directors” means the directors of the company

“The Proposal” means the document annexed hereto and signed by the directors of the Company

“the effective date” means the day on which the CVA becomes effective by its approval at a meeting of creditors convened for that purpose

“the CVA” means the Proposal and these Conditions read together in their present form with any modification or variation thereof or addition thereto or condition approved or imposed by the CVA creditors and signed by the directors on behalf of the Company, or made pursuant to Section 4(1) (subject to 4A) of the Act.

any reference to “the Supervisor” shall include a reference to Joint Supervisors where the context so admits and Joint Supervisors have been appointed.

“CVA Creditors” means any creditor bound by the CVA under Section 5(2) of the Act or subsequently admitted to the CVA by the Supervisor in accordance with these Conditions.

‘secured creditor’ means any creditor whose claim is secured against any assets of the Company

‘preferential creditor’ means any creditor of the Company whose claim is preferential within the meaning of the Act

'unsecured creditor' means any person other than a secured or preferential creditor who has or claims to have any claim however arising against the Company arising out of or having its origin in any matter occurring prior to the effective date

3 ACCEPTANCE OF STANDARD TERMS

The approval by Creditors of the CVA pursuant to the Act and the Rules shall be deemed to include approval of and acceptance of these standard Conditions in all respects.

4 EFFECT OF APPROVAL

From the approval of the Proposal pursuant to the provisions of the Act and the Rules, for the duration of the CVA, (and in addition after the cessation of the CVA provided that a Certificate of Due Completion is filed by the Supervisor in accordance with clause 27 hereof) no CVA Creditor shall be entitled to commence or continue legal action or other proceedings against the Company or its property including, without limitation, liquidation proceedings and distraint.

5 DURATION

The CVA shall, subject to clauses 7 and 25 hereof, continue for such period of time as is set out in the Proposal provided that such a period of time may be extended by agreement of all parties bound by the Proposal in accordance with Section 5(2) of the Act. If it is decided to so extend the CVA, this shall be done by the Supervisor calling a Meeting of Creditors and in respect of such a meeting the rules contained in clause 7 concerning Variations shall apply.

6 COMPLETION

On completion of the CVA, the Supervisor shall in writing notify the Creditors accordingly by issue of a Certificate of Due Completion confirming that the Company has complied with all of its obligations under the CVA, whereupon the Company shall be released from all liabilities to the CVA Creditors in respect of which the Company and the CVA Creditors are bound under the CVA, subject to any exceptions stated in the Proposal.

7 VARIATION

The Supervisor may at any time convene a general meeting of the CVA Creditors and a general meeting of the members of the company for the purpose of considering and if thought fit, approving any variation to the CVA. Any variation approved by such meetings shall be binding on all CVA creditors and the members.

The notice of the meetings shall set out the proposed variation or variations and will be accompanied by the Supervisor's report giving the reasons for the variation or variations and the expected effect.

So far as is possible, the creditors' meeting shall be conducted in accordance with Section 4 of the Act and Rules 1.13 to 1.21 of the Rules and the members' meeting shall be conducted in accordance with the Companies Act 2006, except that:

references to the Proposal shall be taken as references to the proposed variation;

references to the Nominee shall be taken as references to the Supervisor;

modifications may not include one intended to replace the Supervisor;

creditors' claims and members' interests shall be calculated as at the date on which the original Proposal was approved;

any appeal against the Supervisor's decision on entitlement to vote or any other matter arising at such meeting shall be made under the provisions of Section 6 of the Act;

Rules 1.17A(4),(5),(6) and (7) shall not apply; and

the Supervisor shall be Chairman of the members' meeting.

If at any meetings so held the Supervisor, the Company or any CVA Creditor is dissatisfied with any resolutions passed, they may apply to the court for directions pursuant to Section 6 of the Act and the decision of the court shall be final.

No variation to the CVA shall be effective without the consent in writing of the directors of the Company, such consent not to be unreasonably withheld.

8 DECLARATION OF TRUST

The Company declares that all property comprised in the Proposal is held by it on trust for the Supervisor for the purposes of the CVA. The Supervisor shall hold all assets received by him under the CVA on trust for the benefit of the CVA Creditors. The Supervisor shall have the power to deal with any asset which is subject to a charge and which is comprised in the CVA but shall be under no obligation to do so unless he considers it to be of material benefit to the CVA Creditors to do so.

9 GENERAL OBLIGATIONS

For the general implementation of the CVA, the Company acting by its directors shall at the request of the Supervisor:

do all the things and execute all and any documents that the Supervisor shall reasonably require;

institute or defend any legal proceedings which touch upon or concern the CVA as required by the Supervisor;

attend upon the Supervisor when required; and

deliver to the Supervisor upon receipt any communication received by it (save from the Supervisor) which may touch upon or concern the CVA or any assets comprised therein.

10 AFTER-ACQUIRED ASSETS AND WINDFALLS

If prior to the completion of the CVA the Company shall become possessed of or receive assets or property (of whatever nature) which are not included in the Proposal and:

the existence of which was not or could not reasonably have been known or envisaged at the date of the Creditors' approval of the CVA; or

the existence of which was not disclosed to the Supervisor by the Company and that the Company owned at approval of the CVA; or

that as a result of any change in law, or any clarification of existing law, would be claimable by a Liquidator in Liquidation of the Company as part of the liquidation estate if a Winding Up Order were made against the Company but would not have been so claimable in the absence of such change or clarification.

then the Company shall forthwith give written notice of the same to the Supervisor and make available to the Supervisor the whole of such assets or property or such part of such assets or property as shall allow the Supervisor to pay in full all the liabilities of the Company including the costs of the CVA and the Supervisor's fees and disbursements comprised in the CVA together with interest at the rate applicable to liquidation, and shall be dealt with as included assets within the terms of the CVA.

11 CONTINUATION OR SALE OF COMPANY'S BUSINESS

The following Conditions shall only apply if the Company's business is to be continued for what ever reason after approval of the CVA.

The Company shall continue its business on its own account:

in its own name; or

if applicable, in the trading name or names in which it was conducted immediately before the date of the Moratorium or, if no Moratorium has been obtained, the date the CVA takes effect.

The name and/or trading name(s) of the company shall not be changed during the duration of the CVA without the Supervisor's consent in writing.

Until such times as the CVA has been completed and the provisions of Rule 1.29 complied with or the CVA has been terminated and a Certificate of Non-Compliance been issued by the Supervisor, the Company acting by its directors shall not, except as expressly provided for in the Proposal:

enter into any contract or agreement or undertaking for the sale of its business or any part of it;

dispose of the goodwill of its business or any assets forming part of or essential to such goodwill;

increase directors' emoluments (otherwise than by inflation), or appoint additional directors;

pay a dividend to any class of member of the company;

undertake or agree to undertake any capital expenditure (other than for the purpose of replacement) which is not referred to in the Proposal;

otherwise than in accordance with arrangements that subsist at the date of approval of the CVA:

- (i) create or permit to subsist or extend any mortgage, debenture, charge, pledge, lien or other encumbrance or security whatever over any part of the company's present or future undertaking, property, assets or revenues;
- (ii) factor, sell, assign, discount or otherwise dispose of any book or any other debts, claims or securities for money;
- (iii) make loans or advances to any person; or
- (iv) issue or agree to issue any guarantee (other than in the ordinary course of business).

purchase or redeem any of its shares or make any fresh issue of shares or effect any sub-division of its capital;

amalgamate with or merge into any other corporation or enter into any other scheme or arrangement or reconstruction;

form or acquire any new subsidiary;

make any other material changes to the extent, nature or place of its business except:

- (i) in accordance with any provisions of the CVA; or
- (ii) if bound by law to do so.

not convene meetings of members and creditors, if the purpose or effect of these meetings is to wind up the company, nor seek an administration or winding-up order against the company;

without the Supervisor's written consent.

Until completion of the CVA or such time as the Company ceases to carry on any business, whichever is the earlier, the Company, acting by its directors, shall:

submit such accounts, financial projections or other accounting information to the Supervisor as the Supervisor may require;

complete and file all statutory returns (including taxation returns) concerning the company's affairs on time;

ensure that adequate insurance cover is maintained at all times in respect of its operations and assets; and

consult the Supervisor as often as the Supervisor may require on the conduct and management of the business and its financial affairs generally and keep the Supervisor informed on any material developments relating thereto.

Where the Company continues its business:

the Company acting by its directors shall carry on its business as principal and shall be solely responsible for any liabilities incurred therein after the approval of the CVA, as well as before and shall not hold out the Supervisor or his firm as agent of the company; and

the Supervisor's responsibilities shall not extend to reviewing the business, and in particular the payment of post-CVA liabilities, other than for the purpose of determining contributions to be made by the Company under this Proposal, or its compliance with the terms of the CVA;

notwithstanding the provisions of the CVA, any Creditor shall be at liberty to commence and continue legal proceedings against the Company in respect of any liabilities incurred by it after the approval of the CVA.

12 TAXATION

Subject to clause 13.7 below, the Company alone shall be responsible for the payment of any taxation liabilities (including any liability for Value Added Tax) and for the filing of appropriate tax returns (including Corporation Tax Returns) arising from the continuation of the business, sale of any assets therein or otherwise, after the approval of the CVA, and it is a term of the CVA that such liabilities shall be paid as and when they fall due. HM Revenue & Customs shall have the right to commence proceedings against the Company in respect of any unpaid post CVA liabilities.

Capital gains tax liabilities arising from the disposal of assets under the terms of the CVA shall be an expense of the CVA only where proceeds of sale of such disposal of assets are passed to the Supervisor for distribution under the terms of the CVA.

Details of any VAT incurred in the CVA will be forwarded to the Company by the Supervisor and it will incorporate these details into its VAT returns and reimburse the Supervisor in respect of the VAT incurred.

13 EXPENDITURE ON ASSETS

The Supervisor shall only spend any funds in his hands for the purpose of repairing completing or altering any asset held by him or by the Company on trust for the purpose of the CVA if:

he is of the opinion that, as a result, the asset or assets concerned are likely to become more readily saleable or increase in value by an amount greater than that of the expenditure thus incurred; or

if so bound to do by the terms of the Proposal.

14 COMPANY'S ASSETS

Where the Company is to transfer assets to the Supervisor, it shall do so within the timescale provided in the Proposal, but (where included in the Proposal) the following assets shall not be transferred to the Supervisor but shall be held by the Company on trust for the benefit of the Creditors within the CVA:

freehold or leasehold property;

items which cannot be transferred without breaching the terms of any statute or the Conditions on which they are held; and

the Company's business.

The Supervisor may require the Company to execute a legal charge over any freehold or leasehold property or any interest therein to secure the sums payable under the CVA. If such a legal charge has not been executed within one month of the approval of the Proposal the Supervisor may at his discretion register a caution over such property to secure the amount payable.

Where book debts, or other assets are to be transferred to the Supervisor, the approval of the Proposal shall act as an assignment of those debts to the Supervisor. The Supervisor may, if required, execute a bill of sale and register the same to secure those assets that are to be transferred to the Supervisor.

15 SUPERVISOR'S POWERS

The powers of the Supervisor shall be those set out in the Proposal and these Conditions and, subject thereto, the Supervisor shall have all the powers conferred upon an Administrative Receiver by virtue of Schedule 1 to the Act, provided that the Supervisor shall be under no obligation to exercise such powers unless expressly so required by the CVA.

The Supervisor may delegate to his firm and any fellow member, servant, employee or agent of his any or all of his duties hereunder save those which by law he is bound to perform personally.

16 DIRECTIONS

If the Supervisor is for whatever reason uncertain as to what action he should take in any situation, he may within his own discretion:

seek the advice of the Creditors' Committee (if any); or

seek the advice of the Creditors; or

apply so far as is possible the Act and Rules as they relate to liquidation; and subject thereto; or

apply to the court for directions.

17 PROOF OF DEBTS AND DIVIDENDS

Unless stated otherwise, provided for in the Proposal or the context of the Proposal otherwise demands, the following provisions of the Act shall apply to the Proposal:

Rules 4.73 – 4.79 inclusive; and

Rules 4.82– 4.94 inclusive

with such modifications as shall be appropriate to make and render the same relevant to the Proposal, provided that unless the Proposal so provides no creditor's claim shall carry interest for any period commencing with the day on which the Proposal is approved by the Creditors' Meeting. Creditors' claims shall be calculated as at such date.

18 AGREEMENT OF CLAIMS

As soon as possible after the approval of the Proposal (provided no application under Section 6 is pending), the Supervisor shall send a notice to each person shown in the Proposal or statement of affairs as a creditor requiring him/her or it to provide such details as the Supervisor thinks fit of the amount claimed to be due from the Company.

The Supervisor shall:

send a similar notice to any other person to whom he believes the Company may be indebted;

be entitled but not obliged to insert a similar notice in such newspapers as he considers appropriate; and

be entitled to ask for any further details or documentation he thinks necessary for the purpose of establishing the amount due to any person claiming to be a creditor.

No creditor shall be entitled to receive any payment or dividend from the Supervisor or any other person under the terms of the CVA unless:

such claim is proven to the satisfaction of the Supervisor; and

he is bound by the CVA by virtue of Section 5(2) or by an undertaking to that effect.

In admitting proofs of debt under the CVA, the Supervisor shall apply, wherever applicable and subject to the provisions of the CVA, those provisions of the Act and the Rules relating to the admission and payment of proofs of debt by a liquidator in a winding up. For the avoidance of doubt, the Supervisor is empowered to serve Notice of Intended Dividend on CVA creditors

Creditors who do not prove their debts, or who fail, in the opinion of the Supervisor, to provide adequate proof of their debt, will not be entitled to receive a dividend, but will still be bound by the CVA.

Unless otherwise agreed by the Creditors in general meeting or otherwise provided for in the Proposal no creditor shall be entitled to participate in the CVA unless that creditor's debt is one provable in liquidation within the meaning of the Act and Rules.

19 SECURED CREDITORS

Any Creditor of the Company at the date of approval of the CVA who holds security in respect of part or the whole of their debt shall look to assets forming part of their security to discharge their debts. Any Creditor believed to be fully secured shall be deemed to rely upon that security for full satisfaction of its debt and is not bound by the terms of the CVA save to the extent of any subsequent deficiency discussed below.

In the event of a shortfall or deficiency occurring on realisation of such security and to the extent that the Creditor is no longer fully secured, such Creditor will rank for dividend purposes as an unsecured Creditor.

No dividends paid by the Supervisor prior to such shortfall or deficiency occurring on realisation of security shall be prejudiced by any such claim, but the secured creditor shall have a first charge on available funds until such time as the dividend due to that Creditor equates to the rate already paid to unsecured CVA Creditors.

Wherever a secured Creditor does not value its security, it may value its security with the agreement of the Supervisor and may rank for dividend for any shortfall.

The Supervisor shall receive any surplus remaining in the hands of the secured Creditor after that Creditor has been paid in full for the benefit of the CVA Creditors as a whole.

20 PAYMENTS TO CREDITORS

The Supervisor shall not make any payment to Creditors until at least 28 days have elapsed since the date of the Creditors' Meeting approving the CVA. Subject thereto and provided no application under Section 6 or 7 of the Act is pending, he shall make payments or distributions to Creditors:-

at the time or times specified in the CVA; or

if no other provision is made, at such time or times as he considers appropriate.

It is the duty of every creditor claiming in the CVA to advise the Supervisor of any change of address to which any dividend should be forwarded.

Final dividend cheques which remain unrepresented six months after issue will be cancelled by the Supervisor and the funds paid to the Company. The Company will then be liable to the creditors concerned for the amounts of such dividends, notwithstanding the issue of the Completion Certificate or the cancelled cheque, and no action will lie against the Supervisor, nor will he have any further duties or obligations to those creditors.

Any creditor who has not proved his debt to the satisfaction of the Supervisor before the declaration of any dividend is not entitled to disturb, by reason that he has not participated in it, the distribution of that dividend or any other dividend declared before his debt was proved but;

when he has proved that debt he is entitled to be paid out of any money for the time being available for the payment of any further dividend, any dividend or dividends that he has failed to receive; and

any dividend or dividends payable under (a) above shall be paid before that money is applied to the payment of any such further dividend.

Where Creditors claims are met in full, statutory interest at 8% shall be paid from the date that the CVA is approved, or the date of any earlier winding up order made against the Company to the date of payment so far as available funds will allow, before any funds are returned to the Company hereunder.

21 SUPERVISOR'S BANK ACCOUNT

The Supervisor may open one or more accounts with a United Kingdom branch or branches of a recognised bank in his name as Supervisor of the CVA and pay into such account or accounts all the funds received by him under the terms of the CVA. Any funds held by the Supervisor which in his opinion are not required for the immediate purposes of the CVA may be placed by him on deposit with any recognised bank in the United Kingdom or invested as the Supervisor decides is in the best interests of the CVA Creditors.

22 PRIORITY OF PAYMENTS

The funds held by the Supervisor shall be applied strictly in accordance with the terms of the Proposal but subject thereto the Supervisor shall pay from funds under his control in the following order of priority:

- (a) the costs and expenses of realisation of the assets incurred by him
 - (b) (where the company is in liquidation or administration) any balance due to the insolvency practitioner in accordance with Rule 1.23
 - (c) any fees and disbursements and expenses (including, but not restricted to, legal expenses) set out in the Proposal to which the Nominee is entitled
 - (d) any expenses properly incurred by him in pursuance of the CVA including, without prejudice to the generality of the foregoing,
 - (i) unless the court orders otherwise, the cost of any action to which the Supervisor is a party wherein costs are incurred by him or awarded against him in his capacity as Supervisor;
 - (ii) any tax assessable on the Supervisor in his capacity as such;
 - (iii) the costs of complying with any obligation laid upon the Supervisor by virtue of the CVA, the Act, the Rules or any other rules, regulations or orders made thereunder;
 - (iv) such other sums as he shall be authorised or required to pay by virtue of the CVA or any rule of law.
- all such expenses to rank equally with each other.
- (e) any fees and disbursements to which he is entitled, as are specified in the CVA;
 - (f) the agreed petitioning creditor's costs (if applicable);
 - (g) preferential claims;
 - (h) non-preferential unsecured claims;

- (i) interest on preferential and other unsecured claims rateably, calculated in accordance with Sections 189(3) and 189(4) of the Act, the date of approval of the CVA being substituted for the commencement of the liquidation;
- (j) reimbursing persons who have contributed funds or assets to the CVA;
- (k) claims to be treated as deferred under the CVA;
- (l) interest on items (j) and (k), calculated as in (i);
- (m) payment of any remaining surplus to the Company.

If there are insufficient sums to pay any class of expense, creditor or interest as referred to above in full, the available funds will be distributed pro-rata to that class.

No payments or distributions will be made to the shareholders of the company (in that capacity) by the Supervisor.

23 WRONGDOING

Unless disclosed in the Proposal, if, before the completion of the CVA, the Supervisor becomes aware of any matter which in the context of a liquidation would constitute a prior transaction under Sections 238, 239, 244 and 245 of the Act or a wrongdoing under Sections 206 to 211, 213 and 214 of the Act, then he may, at his sole discretion, report the same to the Creditors, convene a Creditors' Meeting and subject to the right of the Company to apply to the court, propose at such meeting failure of the CVA.

24 DEFAULT AND REMEDY

Where there has been a material failure, irregularity or non-compliance in connection with the CVA which in the Supervisor's sole opinion is capable of remedy, he shall issue to a Default Certificate to the Company, identifying the breach and requiring it within 14 days of the Supervisor sending the Default Certificate to remedy the breach

The issue of a Default Certificate shall not:

- release the Company from any obligations or undertaking under the CVA;
- prejudice the Supervisor's right to exercise any powers under the CVA;
- prejudice the collection of funds by the Supervisor, and the distribution of funds under the control of the Supervisor, in accordance with the terms of the CVA; or
- cause the CVA to fail.

If, within the specified 14 days the breach is remedied, no further action shall be taken by the Supervisor in relation to the former breach; if the breach is not remedied the Supervisor shall issue a Certificate of Non-Compliance.

25 FAILURE

In the event that there is a failure of the CVA, as defined hereafter, the Supervisor shall forthwith issue a Certificate of Non-Compliance to the CVA Creditors. The issue of a Certificate of Non-Compliance shall terminate the CVA without prejudice to the subsistence of

the trusts constituted thereby with regard to any funds held by the Supervisor under the CVA and shall release the CVA Creditors from the restrictions contained in clause 4. Any CVA creditor so released shall be at liberty to take such action against the Company as he is entitled to do by law in respect of the balance of any claim against the Company, having taken into account any interim or final distribution made under the CVA.

On the issue of a Certificate of Non-Compliance the Supervisor shall distribute such funds as are held by him in accordance with the terms of the CVA.

The term "failure of the CVA" shall mean any of the following events:

any matter which would entitle any person to petition for the liquidation of the Company under sections 7(4)(b) and 124 of the Act, or, subject to clause 28.4, any other formal insolvency procedure is commenced by or against the company;

any winding up petition being filed in respect of the Company in respect of any liability arising after the approval of the CVA, or before the approval of the CVA in respect of a creditor not bound under Section 5(2) of the Act;

the failure of the Company to comply with any of the terms of the CVA;

any act or thing which in the opinion of the Supervisor renders the implementation of the CVA impossible or frustrated unless such act or thing is envisaged or catered for in the Proposal, provided that the sale of an asset or realisation of an asset for a sum less than that estimated in the Proposal shall not by itself constitute an act or thing within the meaning of this provision unless such is caused by the wilful or negligent act or default of the Company or by someone acting or at his discretion on his behalf other than the Supervisor;

the failure of any matter set out in the Proposal and stated to be a condition precedent of the CVA; or

the passing of a resolution by the CVA Creditors pursuant to clause 23 hereof relating to wrongdoing.

The appointment of an administrative receiver or receiver to realise the assets charged to any secured creditor shall not automatically terminate the CVA, if in the Supervisor's sole discretion it is beneficial for the CVA creditors for the CVA to continue. The Supervisor shall be entitled to receive any surplus remaining after the secured creditor has recovered in full the sum secured, and give a valid receipt therefor.

26 WINDING UP PETITION

In the event of failure of the CVA the Supervisor may, at his discretion, present a petition in the name of the company for the Company's liquidation pursuant to Section 7(4)(b) of the Act provided he has received sufficient funds to set aside for this purpose.

27 TERMINATION

The CVA shall cease to have effect once:

there are no further funds or assets held by the Supervisor or the Company on trust for the purpose of the CVA; or
the Supervisor has issued a Certificate of Due Completion or a Certificate of Non-Compliance.

The issue of a Certificate of Non-Compliance shall:

not release the Company from any obligation placed upon it under the CVA; or
not prejudice the Supervisors' rights to exercise any of the powers given to him under the CVA, including the power to realise any of the assets under his control and to distribute any funds in his hands in accordance with the terms of the CVA.

The Company's liquidation shall not cause the failure of any of the trusts established by the CVA except where the liquidation is commenced on a petition presented due to a default in compliance with the terms of the Proposal. If there is such a default which results in a winding up order being made, all non-statutory trusts established under the CVA shall fail on the making of the winding up order.

28 NO PERSONAL LIABILITY FOR SUPERVISOR AND INDEMNITY

The Supervisor is a party to the CVA merely for the purposes of reviewing the Company's compliance with the CVA, reporting to the Creditors and receiving and distributing funds in accordance with the terms of the CVA. Accordingly, neither the Supervisor nor any member of his staff shall incur personal liability under or in relation to the CVA or in respect of contracts or other obligations of the Company both present or future, or in consequence of the exercise of any power or discretion, and shall in any event be entitled to a full indemnity from the assets of the company in respect of any claim or demand made against him or his firm, including all costs incurred, except insofar as any such liability shall arise as a result of negligence of the Supervisor or his staff, or as a result of any other statute.

If the Supervisor makes a claim upon this indemnity such claim will rank for payment pari passu with the Supervisor's expenses under the terms of the CVA.

Signed: _____ Director

Name _____

For and on behalf of the Board of Directors

Date _____