

AM03

Notice of administrator's proposals



Companies House

THURSDAY



A07 *A7XSNOØG* 24/01/2019 #291
COMPANIES HOUSE

1 Company details

Company number 07699983
Company name in full EXCEL CONSTRUCTION (KENT) LTD

→ Filling in this form
Please complete in typescript or in
bold black capitals.

2 Administrator's name

Full forename(s) EDWIN DAVID STANLEY
Surname KIRKER

3 Administrator's address

Building name/number KIRKER & CO
Street CENTRE 645
2 OLD BROMPTON ROAD
Post town SOUTH KENSINGTON
County/Region LONDON
Postcode SW7 3DQ
Country

4 Administrator's name ①

Full forename(s)
Surname

① Other administrator
Use this section to tell us about
another administrator.

5 Administrator's address ①

Building name/number
Street
Post town
County/Region
Postcode
Country

① Other administrator
Use this section to tell us about
another administrator.

AM03 Notice of Administrator's Proposals



Presenter information

You do not have to give any contact information, but if you do it will help Companies House if there is a query on the form. The contact information you give will be visible to searchers of the public record.

Contact name Edwin Kirker

Company name Kirker & Co

Address

Post town

County/Region

Postcode

Country

DX

Telephone 020 7580 6030



Checklist

We may return forms completed incorrectly or with information missing.

Please make sure you have remembered the following:

- ☐ The company name and number match the information held on the public Register.
- ☐ You have attached the required documents.
- ☐ You have signed and dated the form.



Important information

All information on this form will appear on the public record.



Where to send

You may return this form to any Companies House address, however for expediency we advise you to return it to the address below:

The Registrar of Companies, Companies House,
Crown Way, Cardiff, Wales, CF14 3UZ.
DX 33050 Cardiff.



Further information

For further information please see the guidance notes on the website at www.gov.uk/companieshouse or email enquiries@companieshouse.gov.uk


This form is available in an alternative format. Please visit the forms page on the website at www.gov.uk/companieshouse

AM03
Notice of Administrator's Proposals

6 Statement of proposals

<input checked="checked" type="checkbox"/>	I attach a copy of the statement of proposals	
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7 Sign and date

Administrator's Signature	Signature ✕  ✕																	
Signature date	<table border="1"><tr><td>d</td><td>1</td><td>d</td><td>4</td><td>m</td><td>0</td><td>m</td><td>1</td><td>y</td><td>2</td><td>y</td><td>0</td><td>y</td><td>1</td><td>y</td><td>9</td></tr></table>	d	1	d	4	m	0	m	1	y	2	y	0	y	1	y	9	
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**EXCEL CONSTRUCTION (KENT) LTD
(IN ADMINISTRATION)**

**ADMINISTRATOR'S REPORT AND PROPOSALS TO CREDITORS
PURSUANT TO PARAGRAPH 49 OF SCHEDULE B1
TO THE INSOLVENCY ACT 1986 AND RULES 3.35 AND 3.36 OF THE INSOLVENCY (ENGLAND
AND WALES) RULES 2016**

Edwin Kirker has been appointed Administrator of Excel Construction (Kent) Ltd to manage its affairs, business and property as its agent, without personal liability. He is authorised to act as an Insolvency Practitioner by Chartered Accountants Ireland.

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1. INTRODUCTION

- 1.1 The director, Scott Richard Peters appointed me, Edwin Kirker, of Kirker & Co, Administrator of the Company on 21 November 2018.
- 1.2 This report to creditors and the Proposals enclosed herein, together set out the information required to discharge my duties pursuant to Paragraph 49 of Schedule B1 to the Insolvency Act 1986 ("the Act") and Rules 3.35 and 3.36 of the Insolvency (England and Wales) Rules 2016 (the Rules).
- 1.3 The appointment details appear at Appendix 1 and statutory information on the Company appears at Appendix 2.
- 1.4 A decision procedure is required to seek creditors' agreement to the Proposals and to agree, inter alia, the basis upon which the Administrator will draw his remuneration and Category 2 disbursements. It is my intention to do this by correspondence as provided for by the Act and Rules. Formal notice of the decision procedure is attached at Appendix 9; a Voting Form is attached at Appendix 10. This form should be completed and returned to this office by 23:59 deadline on Wednesday 30 January 2019 ("the Decision Date") with a completed Proof of Debt, attached at Appendix 11 or your vote will be disregarded, as will any forms returned after the Decision Date.

As required by the Rules, I have attached at Appendix 13, Notice of an Invitation to Form a Creditors' Committee should you wish to form one. There is a section included in the Voting Form at Appendix 10 for nominations to act. Guidance on the role of the Committee may be accessed via the following link:

<https://www.r3.org.uk/media/documents/publications/professional/R3%20Guide%20to%20Creditors%20Committees.pdf>

- 1.6 In the absence of a Committee, a resolution shown on the Voting Form will be put to the creditors as a whole.
- 1.7 The outcome of the voting will be reported in due course.
- 1.8 If creditors are not satisfied with the decision procedure being used, they may request that a physical meeting be convened. Any such requests must be made in writing to this office or by email to edwin@kirker.co.uk and must be submitted no later than five business days after the date on which the 'Decision Procedure is delivered to creditors. The deemed delivery date to creditors is Monday 21 January 2019.
- 1.9 For a physical meeting to be convened by the Administrator, it must be requested by:
- a) 10% in value of the creditors; or
 - b) 10% in number of the creditors; or
 - c) 10 creditors.
- 1.10 Creditors' attention is drawn to Appendices 9, 10, 11 and 12.
- 1.11 Creditors may at any time during the course of the Administration, elect to be treated as an opted-out creditor. This means that with certain exceptions, they will not receive any further correspondence with the Administrator about the case. An election to opt-out must be given in writing to the Administrator and an opted-out creditor may revoke the election to opt-out at any time. Notice to Opt-Out is attached at Appendix 14.

- 1.12 If any creditor requires clarification or assistance in relation to the completion of any of the above documents, please do not hesitate to contact this office.
- 1.13 In summary the following documents will need to be completed if you intend to vote in respect of the Administrator's Proposals and other voting rights contained in this Proposal, as follows:
- Appendix 10 and 11 – Voting Form and Proof of Debt – if you wish to vote for the Proposal
 - Appendix 13 and 11 – Nomination to be on a Committee and Proof of Debt – if you wish to be a member of the Creditors' Committee
 - Appendix 14 – Opt-Out Form – if you wish to opt-out from future correspondence as explained in paragraph 1.11 above.

2. BACKGROUND & EVENTS LEADING TO THE ADMINISTRATION

- 2.1 Excel Construction(Kent) Ltd ("The Company") was incorporated in July 2011 by Scott Peters who is a carpenter by trade who built up years of experience in the construction industry. The majority of the Company's work came from recommendations by satisfied customers, word of mouth and repeat business. Initially the work was small domestic extensions but over the years it expanded into larger projects, building developments of up to eight dwellings.
- 2.2 Trading was relatively successful, and the director considers that the business was run with honesty and integrity building up a good reputation and client satisfaction. Initially the business operated from the director's home, but as business increased it was necessary to employ more staff and to accommodate this and offices were leased at Unit 23, Sabre Court, Gillingham Business Park, Gillingham, Kent, ME8 0RW.
- 2.3 Extracts from the statutory accounts show the following results

Year End	31 July 2017	31 July 2016	31 July 2015
	£	£	£
Sales	1,744,325	2,006,759	2,093,380
Gross Margin	320,634	379,571	417,257
Directors' Emoluments	8,052	10,736	11,349
Profit (Loss) After Taxation	70,612	141,682	219,287
Dividends Declared	65,800	104,894	46,733
Balance on P&L Account	340,489	335,677	298,889

- 2.4 Over the past 18 months, the trading conditions became difficult for a number of reasons and the financial position of the Company deteriorated.
- 2.5 On 20 December 2017 the Company was served with a claim in the High Court from a client for whom the Company was undertaking a new build project with a basement. According to the director, the background to the claim was that in January 2017, following extremely adverse weather conditions, there was some movement to the neighbouring property's front garden path which was at the side of the excavated area for the basement. The Company's insurers were notified of the incident, but the damage was remedied by the Company's subcontract ground worker and the work was signed off by the Building Inspector.

- 2.6 The project was put on hold due to an issue with the drainage design, which was a matter dealt with by the client. The director remained in regular contact with the client awaiting instructions to recommence work. However, in the Summer of 2017, the director appears to have been inadvertently copied in on an email between the client and his lender in which it advised that the client wanted to change builders as he was dissatisfied with the Company. This was the first indication of any dissatisfaction.
- 2.7 Soon after, the client realised the error in copying in Mr. Peters to the email and contacted him to advise that they would talk to resolve matters. No such contact was forthcoming, but instead the Company received a letter from the client's solicitors claiming that the client believed that the works performed by the Company had not been done correctly and that the client wanted a full refund.
- 2.8 At this point the Company sought advice from a solicitor but was not advised to refer the matter to the Company's insurers. A reply to the client's solicitor's letter was issued in June 2017 rebutting the same. No response was forthcoming from the client and the director considered that the matter had been resolved.
- 2.9 However, without warning, a High Court claim was served on the Company just prior to Christmas 2017. In the New Year discussions were had with the Company's insurance brokers who gave reassurance that they believed that the claim would be covered by the company's insurers. A claim was made but was rejected by the insurers on the grounds that when the policy was renewed in October 2017 the letter of claim from the client's solicitor had not been declared. At the time Mr. Peters did not understand that there was still a potential claim against the Company.
- 2.10 Throughout 2018 extensive financial and administrative resources were spent by the Company in dealing with the litigation. The director's attention was diverted away from the general operations of the Company which began to atrophy. Rationalisation of the business was undertaken, and employees of long standing were let go. The pressure of the failing business and the need to expend much effort into the defence of the claim has led to Mr. Peters' health deteriorating under the mental stress.
- 2.11 The Company's position was exacerbated by another project to build a small development of houses encountered a number of problems, none of which were caused by the Company, but this caused a serious delay in the build programme and overrun in costs by the Company, which it will be unable to recover.
- 2.12 The Company also suffered from lack of new orders as the industry sector began to retrench in the uncertainty of Brexit.
- 2.13 In November 2018, the director took the decision that if the claim from the litigation was proven, the Company would become balance sheet insolvent and, further, to continue with the litigation would expend all of the company's working capital making it unable to pay its debts as and when they fell due. These debts would include the substantial legal costs of defending the litigation in court with no certainty of recovering these costs in the event of the claim being dismissed.
- 2.14 A number of suppliers began to pressure the Company into settling their accounts and it was clear that the Company needed protection from such pressure. Consequently, the director sought advice from Kirker & Co in November 2018 and as a result of that advice the director filed a Notice of Appointment of an Administrator in the High Court on 21 November 2018 appointing Edwin Kirker of Kirker & Co as Administrator.

3. PURPOSE OF ADMINISTRATION

3.1 Pursuant to paragraph 3(1) of Schedule B1 to the Insolvency Act 1986, the Administrator must perform his functions with the objective of:

- a) Rescuing the Company as a going concern, or
- b) Achieving a better result for the Company creditors as a whole than would be likely if the Company were wound up (without first being in Administration), or
- c) Realising property in order to make a distribution to one or more secured or preferential creditors.

3.2 These objectives form a hierarchy. The rescue of the Company is the priority. If this is not possible the Administrator seeks to achieve a better result for the creditors as a whole. In the event that this cannot be achieved, the Administrator is permitted to realise assets for the benefit of the preferential or secured creditors.

3.3 In accordance with Paragraph 4(2) of Schedule B1 of the Act I would comment as follows:

- The first purpose – i.e. rescuing the Company as a going concern. Initially this was thought to be achievable by the Company exiting via a CVA, however, this is no longer feasible as the Company has no ability to raise the substantial cash injection of working capital that would be required to continue trading.
- The second objective is usually achieved by the sale of the business and assets on a going concern (or a more orderly sale process than in liquidation). Since the Company had no extant order book there was no business to market. The collection of the contract balances, retentions and investments should achieve a dividend for the non-preferential creditors.
- The third purpose – i.e. a distribution to one or more of the preferential or secured creditors – is not applicable as there is no holder of a qualifying floating charge and the preferential creditor claims will be discharged in full. From the realisations.

3.4 I am of the opinion that the second objective is most likely to be achieved and the Company should, at the appropriate time, move from Administration to Creditors' Voluntary Liquidation ("CVL") for the purpose of distributing money to the non-preferential creditors by way of a dividend.

4. PROGRESS OF THE ADMINISTRATION TO DATE

4.1 Notice of my appointment was filed in The High Court of Justice and provided to the Company, directors and shareholders on 21 November 2018. I have notified all creditors of my appointment. My appointment was advertised in The London Gazette on 28 November 2018.

- 4.2 The Administration Order had the effect of creating a statutory moratorium in relation to legal proceedings. Consequently, the litigation referred to in Section 2.5 above is now stayed. I have instructed Roger Metcalfe Associates, Chartered Quantity Surveyors to consider the claim and the defence submitted by the subject Company. Once their advice is to hand, I shall consider how to proceed with the litigation. There needs to be quantum agreed as to the level (if any) of the claim that can be admitted into the Administration as a non-preferential debt. There is only a finite amount of money in the estate and it would be more beneficial to all parties(including the general body of creditors) if such quantum could be agreed with resorting to the litigation as the legal costs in defending the claim will only diminish the pool of money that would be available for a dividend. A meeting is being sought directly with the client as no response has been received to my correspondence with his solicitors.
- 4.3 The Company's premises have now been vacated. MacMillan Browne Limited were instructed as agent to dispose of the Company's physical assets prior to Administration by the Company. A sale was achieved by private treaty in the sum of £38,700. I have retained those agents to dispose of the Company vehicles that were subject to finance and to clear the premises of waste to enable an orderly surrender of the property to the landlord.
- 4.4 The agents have advised that there was no equity within any of the finance agreements but has liaised with the finance companies to repatriate the vehicles.
- 4.5 There are a number of balances due to the Company from customers, although a number of them are disputed. Demands have been issued.
- 4.6 Statement of Insolvency Practice 13 (Disposal of Assets to Connected Parties in an Insolvency Process) recognises that connected party transactions may be in the best interests of creditors but that there may be concerns that such disposals may give rise to concerns that assets may have been disposed of at less than market value and/or on more favourable terms than would have been available to a third party. Transparency in all dealings is of primary importance through adequate disclosure. The disposal of the chattel assets prior to Administration was to a third party in which the director has no financial interest
- 4.7 I have commenced my investigations into the Company's affairs and the conduct of the director, who is co-operating with my enquiries.

5. STATEMENT OF AFFAIRS

- 5.1 Under Paragraph 47 of Schedule B1 to the Insolvency Act 1986, a director is required to provide a Statement of Affairs for a company in Administration. The director was served with notice to submit a Statement of Affairs in statutory format as at the date of the Administration. The Statement of Affairs has not yet been provided in the statutory format, but sufficient information has been made available to produce an estimated financial position. My comments on key elements of the information provided appear below. The Statement of Affairs in statutory format is anticipated soon and will be filed at Companies House
- 5.2 Two of the Company's vehicle fleet was on finance. The respective finance companies have recovered their assets, as there are no equities in the agreements

- 5.3 The Company's premises are leasehold. The rent was prepaid to 24 December 2018. As an upwards rent review was only recently undertaken by the landlord, the agents advise that there is no premium that could be achieved. Attempts are being made to voluntarily surrender the lease to the landlord.
- 5.4 The unencumbered vehicle fleet was sold by the agent prior to Administration for £36,700, payable over 12 months commencing January 2019.
- 5.5 The office furniture and equipment were also sold by the agent prior to Administration for £1,500, again payable over 12 months commencing January 2019.
- 5.6 The tools and machinery were also sold by the agent prior to Administration for £500, again payable over 12 months commencing January 2019.
- 5.7 The agent advises that the remnants of stock at the premises had no realisable value.
- 5.8 Cash at Bank amounting to £56,973.82 has been recovered.
- 5.9 The Company has an investment of £50,000 in a development of houses where it had been invited to be a contractor. This investment is likely to be recovered in full once the development project is completed.
- 5.10 The accounting records show contract balances of £46,253. A number of these are disputed and the disputes are not yet resolved. For the purpose of the Statement of Affairs only, a provision for doubtful debts has been made and the estimated to realise figure is £21,726.
- 5.11 There are two retentions that are due for release later this year. Their value is £57,654, however, for the purpose of this Statement of Affairs only a provision has been made to show a recoverable sum of £45,000.
- 5.12 The preferential claims are in respect of arrears of holiday pay and pension contributions from four employees made redundant following the appointment of the Administrator. The Redundancy Payments Office is processing the claims which are estimated at £4,408. On the information available this class of creditor will be paid in full.
- 5.13 The Prescribed Part is an amount of funds that would be due to a floating charge holder, which is ring-fenced and made available to the non-preferential creditors in accordance with Section 176A of the Insolvency Act 1986. In this matter there is no holder of a qualifying floating charge and therefore the Prescribed Part will not apply.
- 5.14 The details of the creditors are shown at Appendix 3. The figures are estimated and have not been audited. The sums shown as being owed to creditors are the figures in the Company's books and records. Accordingly, the amounts shown may change as claims are agreed.
- 5.15 The Statement of Affairs includes an amount in respect of the litigation referred to in Section 2.5. Although it is shown for the amount claimed in the High Court litigation, the director disputes that any sum is due and thus the claim is referred to as a Contingent Creditor. Initial advice from the Quantity Surveyor appointed by the Administrator to consider the merits of the claim and the defence is that the claim (if any) would be considerably less than claimed through the litigation. A definitive opinion is due shortly.

- 5.16 The Statement of Affairs does not take account of the costs and expenses of the Administration. These will include legal fees, valuation fees and my own fees as Administrator. More details on my fees appear in the Section 7 below.
- 5.17 Creditors were invited to complete the claim form that was issued with the notice following my appointment on 21 November 2018. If you have not already done so, please complete the Proof of Debt Form at Appendix 11. There is no need to submit both.

6. RECEIPTS & PAYMENTS

- 6.1 A Receipts & Payments Account for the period from Administration to 14 January 2019 appears in Appendix 4.
- 6.2 I believe that the account is self-explanatory. The agent is holding funds from the disposal of the chattels and will account shortly. I am holding £57,038.19.
- 6.3 My firm has borne the statutory advertising and bonding costs pending approval at the forthcoming Meeting of Creditors.
- 6.4 On the basis of information to date, it appears that there is the prospect of a dividend to the non-preferential creditors; however, the quantum is dependent upon the realisation of assets and the admission for dividend purposes of any part of the contingent claim.

7. ADMINISTRATOR'S FEES AND DISBURSEMENTS

7.1 Pre- Administration Costs

- 7.1.1 I have incurred costs prior to my appointment that relate to the following activities:
- Advice to the director on insolvency and the options available to the Board and the Company;
 - The overall review of the business and its on-going viability,
 - Review of the High Court litigation; and
 - The preparation of the documentation that allowed for the Company to be placed into Administration.

These costs are as follows:

Grade	Hours	Cost (£)
Partner	10.90	3,215.50
Manager	0.35	68.25
Assistant	0.00	0.00
	11.25	3,283.75
Average Hourly Rate		291.89

- 7.1.2 In addition I have used the services of SBP Law, Solicitors, in making the applications to court on behalf of the director, advising on the Administrator's appointment, and the withdrawal of winding up petitions presented after Notice of Intention to Appoint an Administrator had been filed in court. Those costs amount to £500 plus VAT and disbursements, including court fees of £61.
- 7.1.3 None of these Pre-Appointment costs have been paid. Such Pre-Appointment costs are subject to approval of the creditors as an expense of the Administration, separately to the approval of the Proposals. This approval will be the responsibility of the Creditors' Committee, if one is appointed, or alternately by resolution of the general body of creditors.

7.2 Post Appointment Costs

- 7.2.1 Included in the Voting Form at Appendix 9 is a resolution that asks the general body of creditors to determine the basis upon which the remuneration of the Administrator is fixed. The basis of the Administrator's remuneration can be fixed either as a percentage of the value of which they have to deal (a percentage basis) as a set amount, or by reference to the time properly given by the Administrator and his staff in attending to matters as set out by reference to the Fee Estimate attached at Appendix 6.
- 7.2.2 My time costs for the period from 21 November 2018 to 12 January 2019 total £17,488 plus VAT incurred over 67.3 hours at an average rate of £259.26 per hour. A breakdown of these time costs and my disbursements appears at Appendix 5. The majority of my time and that of my staff has been spent on dealing with the Company's assets, employee claims, investigating the Company's trading activities, liaising with the valuers, dealing with the creditors' enquiries, considering the High Court litigation, investigating the conduct of the directors, and statutory compliance.
- 7.2.3 On the assumption that there are no significant problems in progressing the Administration, I expect to incur further time costs in dealing with all of the statutory and legal matters and moving the Company from Administration to CVL in line with the Fee Estimate at Appendix 6. There will be further costs in the CVL process.
- 7.2.4 For the formal purposes of the Administration, it is proposed that my remuneration as Administrator should be fixed by reference to the time properly given by me and my staff in attending to matters arising in the Administration.
- 7.2.5 The best practice guidelines relating to the approval of Administrators' remuneration are set out in Statement of Insolvency Practice 9, which is reproduced at Appendix 7.

8. DIVIDEND PROSPECTS

- 8.1 There are no secured creditors.
- 8.2 The preferential creditors will be paid in full.
- 8.3 *Total non-preferential claims are estimated to be in the region of £640,479 and are set out in the Statement of Affairs at Appendix 3. This includes the disputed contingent creditor of £450,000.*
- 8.4 I anticipate that some creditors will disagree with the amounts in the Company's books and I expect the total to change, as claims are reconciled. However, on the basis that total claims remain at or around the current level, and that realisations are in line with expectations, there will be a dividend

for creditors. This is after the costs and expenses of the Administration are taken into account, but before any costs associated with the subsequent insolvency process.

- 8.5 Any such dividend will be paid through a CVL process that is likely to follow this Administration. It is not possible to provide a timescale for a distribution since this will be dependent upon the realisation of assets and the quantification of the contingent creditor. However, any creditor who has not yet claimed VAT Bad Debt Relief should do so, as this effectively recovers 20p in the £ immediately.

9. EC REGULATION

- 9.1 EC Regulations apply, and these proceedings are Main proceedings as defined in Article 3 of the EC Regulations. The centre of main interest of the Company is in England within the EC.

10. VOTING PROCEDURE

- 10.1 It is important that you give careful consideration to this Report and its Appendices.
- 10.2 As I am seeking approval for the Administrator's Proposals and certain resolutions by correspondence, in order for your vote to count, you should complete and return the Voting Form attached at Appendix 10 by the deadline of 23:59 on Wednesday 30 January 2019 or your vote will be disregarded as will any forms returned after the closing date. In order for you to vote, you must supply written details of your debt as at the date of the Administrator's appointment being 21 November 2018. A Proof of Debt Form has been attached at Appendix 11 for use. Voting Forms must be returned by post to Kirker & Co, Centre 645, 2 Old Brompton Road, South Kensington, London, SW7 3DQ or by email to edwin@kirker.co.uk
- 10.3 Creditors will be notified of the outcome of voting in due course.

11. ADMINISTRATOR'S PROPOSALS

- 11.1 Pursuant to Paragraph 49 of Schedule B1 of the Act, my Proposals for achieving the purpose of the Administration appear at Appendix 7.

12. ADMINISTRATOR'S INVESTIGATIONS

- 12.1 Under the insolvency legislation, I have a duty to consider the conduct of those who have been directors of the Company at any time within three years preceding the Administration. I am also required to consider whether any civil proceedings should be taken. Please advise me if there is any matter that you believe I should be made aware of when considering the director's conduct. Please note that this request for any information forms part of the Administrator's normal investigation proceedings and does not imply any wrongdoing.

13 END OF THE ADMINISTRATION

13.1 The options available to conclude the Administration are:

- (a) Petition the Court to have the Company compulsorily wound up;
- (b) File the necessary documentation to have the Company placed into CVL;
- (c) Call a meeting of creditors to place the Company into a CVA;
- (d) Return control of the Company to its Directors; or
- (e) Apply to have the Company dissolved (i.e. struck off at Companies House).

13.2 If the realisations are sufficient to enable a distribution to unsecured creditors, either a CVL or CVA can provide the exit route from Administration.

13.3 In circumstances which leads to a move to CVL, I propose that pursuant to Paragraph 83(1) of Schedule B1 to the Act, the Company shall move from Administration to CVL and that Edwin Kirker of Kirker & Co, Centre 645, 2, Old Brompton Road, South Kensington, London, SW7 3DQ be appointed as the Liquidator.

13.4 In accordance with Paragraph 83(7)(a) of Schedule B1 to the Insolvency Act 1986 and Rule 3.60(6)(b) of the Insolvency (England and Wales) Rules 2016 creditors may nominate a different person as the proposed liquidator, provided that nomination is made after receipt of the Proposals and before the Proposals are approved.

14 OTHER MATTERS

14.1 Should any creditor have any information concerning the Company's affairs which they would like to bring to my attention, please do so in writing to me at Kirker & Co, Centre 645, 2 Old Brompton Road, South Kensington, London SW7 3DQ or by email to edwin@kirker.co.uk

Yours faithfully,



Edwin Kirker
Administrator.

APPENDIX 1

APPOINTMENT DETAILS

Name of Administrator:	Edwin D S Kirker
Address of Administrator:	Kirker & Co Centre 645 2 Old Brompton Road South Kensington London SW7 3DQ
Date of Administration:	21 November 2018
Date of Report:	14 January 2019
Court Reference:	High Court of Justice No: CR-2018-010025
Appointor:	The Director under Paragraph 22 of Schedule B1 to the Insolvency Act 1986

Under Article 3 of the EC Regulation, these proceedings are Main Proceedings.

APPENDIX 2

STATUTORY INFORMATION

Name of Company:	Excel Construction (Kent) Ltd
Company Number:	07699983
Date of Incorporation:	11 July 2011
Principal Activity:	Construction of Domestic Buildings
Registered Office:	c/o Kirker & Co Centre 645 2 Old Brompton Road South Kensington London SW7 3DQ
Former Registered Office:	1 – 3 Manor Road Chatham Kent ME4 6AE
Former Trading Address:	Unit 23, Sabre Court Gillingham Business Park Gillingham Kent ME8 0RW
Directors:	Scott Richard Peters (Appointed 11 July 2011) Gary John Clark (Appointed 1 May 2015) (Resigned 8 January 2016)
Company Secretary:	Helen Anne Peters (Appointed 11 July 2011) (Resigned 2 January 2018)
Issued & Paid Up Share Capital	£100 of Ordinary Shares
Shareholders:	Scott Peters - 95 Ordinary "A" Shares Helen Peters - 5 Ordinary "B" Shares

APPENDIX 3

STATEMENT OF AFFAIRS AS AT 21 NOVEMBER 2018

ASSETS	Book Value	Estimated to Realise
	£	£
Plant Machinery and Vehicles	104,152	38,700
Stock	100	0
Debtors	46,253	21,726
Retentions	57,654	45,000
Investments	50,000	50,000
Bank	56,973	56,973
	<u>315,132</u>	<u>212,399</u>
LESS: PREFERENTIAL CREDITORS		
Employees		<u>4,408</u>
SURPLUS AS REGARDS PREFERENTIAL CREDITORS		207,991
LESS: PRESCRIBED PART		
None		<u>0</u>
SURPLUS AVAILABLE TO NON PREFERENTIAL CREDITORS		207,991
LESS: NON PREFERENTIAL CREDITORS		
Trade & Expense Creditors	69,060	
Crown	103,536	
Redundancy	13,475	
Contingent Claims	<u>450,000</u>	
		<u>636,071</u>
DEFICIENCY AS REGARDS CREDITORS		(428,080)
LESS: SHARE CAPITAL		
Orinary Shares of £1 each		<u>100</u>
DEFICIENCY AS REGARDS MEMBERS		<u>(428,180)</u>

Excel Construction (Kent) Ltd
Administrator's Proposals
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LIST OF CREDITORS

Name	Address	Amount (£)
Alon Interiors	785 London Road, Larkfield, Kent, ME20 6DE	959
Alsford Timber	Administration & Support, Ness Road, Erith, Kent, DA8 2LD	700
Beadles Joinery Ltd	6 Regent Business Centre, Revenge Road, Lords Wood, Chatham, Kent, ME5 8DW	3,800
BcTec Ltd	Unit 10 Invicta Business Centre, Bredgar Road, Breadhurst, Kent, ME8 6PG	832
Brewers	4 - 5 Matilda Close, Gillingham Business Park, Gillingham, Kent, ME8 0RP	995
British Gas	c/o Baker Tilly Creditor Services, 6th Floor, Salisbury House, 31 Finsbury Circus, London, EC2M 5SQ	843
Buildbase (Allsands)	Anglia Regional Credit Control, Burnt Mill Industrial Estate, Harvey Road, Basildon, Essex, SS13 1QJ	475
Canelec Limited	Swanton Farm, Swanton Lane, Bislington, Kent, TN25 7JR	6,709
Carpet & Flooring (Trading) Limited	Credit Services, Unit 3 Arrow Valley, 54 Claybrook Drive, Reddish, B98 0FY	140
CITB	Levy, Bircham Newton, Kings Lynn, Norfolk, PE31 6RH	561
City Electrical Factors Ltd	Unit 14 Crusader Close, Gillingham Business Park, Gillingham, Kent, ME8 0PR	4397
Deltron Services Limited	8 Viewpoint, Pennenden Heath, Maidstone, Kent, ME14 2DZ	2,880
Drakes Plumbing Supplies Ltd	1 Chieftain Close, Gillingham Business Park, Gillingham, Kent, ME8 0PP	162
Fuel Card Services Limited	Kingsway House, Kingsway, Burnley, Lancs, BB11 1BJ	158
Four Jays Group	Barling Farm, East Sutton, Maidstone, Kent, ME17 3DX	185
Gibbs & Dandy	Crusader Close, Gillingham Business Park, Gillingham, Kent, ME8 0QQ	4434
H Langdon & Sons (Chatham) Ltd	51 - 53 Second Avenue, Chatham, Kent, ME5 5BA	415
Howdens Joinery	Gemini House, Maritime House, Medway City Estate, Rochester, Kent, ME2 4DJ	269
HPS	Unit 6 Crusader Close, Gillingham Business Park, Gillingham, Kent, ME8 0PR	715
Jarman Solicitors	Third Floor, Bell House, Bell Lane, Sittingbourne, Kent, ME10 4DH	4,723
Magnet Ltd	Banking & Cashiering Department, Yarn Road Business Park, Allington Way, Darlington, DL1 4XT	7,802
MCE Windows & Doors	Unit 17, Sir Thomas Longley Road, Medway City Estate, Rochester, Kent, ME2 4DP	7,500
NEST	Nene Hall, Lynch Wood Business Park, Peterborough, PE2 6FY	800
NICEIC	Warwick House, Houghton Hall Park, Houghton Regis, Dunstable, LU5 5ZX	510
PID Systems Ltd	8 Dow Road, International Aerospace Park, Monkton, Preswick, KA9 2TU	1,221
Premium Credit Limited	Emryn House, Emryn Way, Leatherhead, Surrey, KT22 8UX	3,382
R S French Ltd	Waterham Business Park, High Street, Waterham, Faversham, Kent, ME13 9EJ	412
Randstad	Ground Floor, 2 County Gate, Stacey's Street, Maidstone, Kent, ME14 1ST	2,046
Redundancy Payments Service	PO Box 18685, Birmingham, B2 2LX	17,083
Rock Fabrications	Matts Hill Farm, Matts Hill Lane, Hartlip, Sittingbourne, Kent, ME9 7UY	3,254
RS Skips Ltd	Unit 4 Apex Business Park, Queens Farm Road, Higham, Kent, DA12 3HU	870
SEC Suppliers & Fixings	Unit 1, Longford Close, Gillingham, Kent, ME8 8EN	22
M Simpson		680
STS Grab Lorry & Plant Hire	STS Yard, Temple Boat Yard, Strood, Kent, ME2 2AG	324
Supaglazing Limited	Unit 5, Deacon Trading Centre, Knight Road, Strood, Kent, ME2 2AU	839
Tile & Stone (Medway) Ltd	Unit 14 Riverside 1, Sir Thomas Longley Road, Medway City Estate, Rochester, Kent, ME2 4DP	14
TML Telecommunications	Network HQ, 508 Edgware Road, The Hyde, London, NW9 5AB	100
Travis Perkins	Sales Ledger, PO Box 5227, Northampton, NN5 7ZE	5,448
Viking Direct	PO Box 9998, Leicester, LE41 9GS	169
Virgin Media Business	Eagle Court, Coventry Road, Sheldon, Birmingham, B26 3RZ	100
Wireless Logic	Grosvenor House, Beaconsfield, Bucks, HP9 1LJ	14
Zunch Assurance Limited	c/o Savills, 53 Colmore Row, Birmingham, B3 3AA	1
HM Revenue & Customs	Enforcement & Insolvency Service, Durrington Bridge House, Barrington Road, Worthing, West Sussex, BN12 4SE	103,536
		190,479
Contingent Claims		
Mr John Denning	c/o Warners, Solicitors, Bank House, Bank Street, Tonbridge, Kent, TN9 1BL - Disputed Debt	450,000
		450,000
TOTAL		640,479

Excel Construction (Kent) Ltd
Administrator's Proposals
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LIST OF SHAREHOLDERS

Name	Address	Ordinary "A" Shares of £1 each	Ordinary "B" Shares of £1 each
Scott Richard Peters	1 - 3 Manor Road, Chatham, Kent, ME4 6AE	95	
Helen Anne Paters	1 - 3 Manor Road, Chatham, Kent, ME4 6AE		5
		<hr/>	<hr/>
		95	5
		<hr/>	<hr/>

APPENDIX 4

ADMINISTRATOR'S RECEIPTS AND PAYMENTS ACCOUNT
 AS AT 14 JANUARY 2019

RECEIPTS	Per Statement of Affairs £	Realised £
Motor Vehicles	36,700	0.00
Plant & Machinery	1,500	0.00
Tools & Equipment	500	0.00
Debtors	21,726	0.00
Retentions	45,000	0.00
Investment	50,000	0.00
Cash at Bank	56,973	56,973.82
Road Fund Licence		60.00
Deposit Interest		4.37
	<u>212,399</u>	
		57,038.19
PAYMENTS		
Statutory Advertising	0.00	
Bond	0.00	
Agent's Fees	0.00	
Legal Fees	<u>0.00</u>	
		0.00
BALANCE IN HAND		<u>57,038.19</u>
Represented by		
Bank		57,038.19
VAT Control		<u>0.00</u>
		<u>57,038.19</u>

APPENDIX 5

ADMINISTRATOR'S TIME COSTS SUMMARY

1 Overview of Case

1.1 Appointment

The Administrator was appointed on 21 November 2018, following an application by the director.

1.2 Strategy

Please see main body of the report.

1.3 Staffing

All staff were dismissed prior to Administration.

1.4 Existing Fee Arrangements

There have been no resolutions to date.

1.5 Anticipated Return to Creditors

It is anticipated that there will be a dividend for non-preferential creditors.

2 Explanation of Office-Holder's Charging and Disbursement Recovery Policies

2.1 Time Recording

Time properly incurred on cases is charged to the assignment at the hourly rate prevailing at the time. The current hourly charge out rates, covering the whole period, appear below:

Grade	£
Partner	295
Manager	195
Assistant	125

2.2 Disbursements Recovery

Separate charges are made in respect of directly attributable expenses (Category 1 disbursements) such as travelling, external printing, statutory advertising, storage, postage and bonding (at cost). General overheads such as office printing and stationery (Category 2 disbursements) are included in the charge-out rates and are not recharged other than mileage at the rate of 45p per mile.

3 Description of Work Carried Out

Section 4 of this appendix outlines the time costs to date in relation to activities undertaken during this matter. These activities can be summarised as follows:

3.1 Pre-Appointment

Time spent in this category comprises the activities required to place the Company into Administration.

3.2 Administration and Planning

The following activities have been undertaken:

- Statutory duties associated with the appointment including the filing of relevant notices
- Notification of the appointment to creditors, members, employees and other interested parties
- Setting up case files
- Reviewing available information to determine appropriate strategy, and
- Setting up and maintaining bank accounts.

3.3 Realisation of Assets

Please see the main body of the report for details on the assets realised.

3.4 Creditors

The time spent includes the following matters:

- Correspondence with creditors
- Recording and maintaining the list of creditors
- Dealing with employee related matters
- Recording creditor claims
- Dealing with creditor queries, and
- Reviewing and evaluating creditor claims.

4 Time and Charge-Out Summary for Post Appointment Period

To date a total of 67.3 hours have been spent to 12 January 2019 at an average charge out rate of £259.26 bringing the total cost to date to £17,448

Task	Partner		Manager		Assistant		Total	
	Time Hrs	Cost £	Time Hrs	Cost £	Time Hrs	Cost £	Time Hrs	Cost £
Compliance/Administration	10 00	2,950 00	3 30	643.50	0 00	0 00	13 30	3,593 50
Assets	12 55	3,702 25	1 15	224 25	0 00	0 00	13 70	3,926 50
Creditors	20 60	6,077 00	15.95	3,110 25	2 15	268 75	38 70	9,456 00
Trading	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00
Investigation	1 60	472 00	0 00	0 00	0 00	0 00	1 60	472 00
Case Specific Matters	0 00	0 00	0 00	0 00	0 00	0 00	0 00	0 00
	44.75	13,201.25	20.40	3,978.00	2.15	268.75	67.30	17,448.00
Average Rate Per Hour		295 00		195 00		125 00		259 26

The above costs exclude VAT.

5 Disbursements and Expenses

Direct expenses (Category 1 disbursements) to date are as follows:

Disbursement	Rate	Amount Charged £	Amount Drawn £	Amount Outstanding £
Specific Penalty Bond	Risk Based Premium	1,724.00	0.00	1,724.00
Statutory Advertising	Rack Rate	79.00	0.00	79.00
UK Postage	Standard Rate	63.55	0.00	63.55
Mileage	45p per mile	38.25	0.00	38.25
Travel Costs	Second Class	35.15	0.00	35.15
Record Storage	£1.30 per box per month	3.90	0.00	3.90
		1,943.85	0.00	1,943.85

We do not recharge Category 2 disbursements.

In addition to the above, there are accrued legal fees from SBP Law, Solicitors of £1,150 plus VAT for post appointment work undertaken, principally in advising the Administrator with regard to the claim for damages.

No fees have yet been charged to date by MacMillan Browne Limited or Roger Metcalfe Associates.

Ark Storage will be submitting a charge for the retrieval, and storage of accounting records and preparing an inventory.

6 Supporting Documentation

Supporting documentation appears at Appendices 1 to 14 of these Proposals and includes the information listed in the Contents on page 2 of these Proposals.

APPENDIX 6

Fees Estimate

Below is the fees estimate in respect of the above case for the purpose of seeking a decision on the basis of fees. The total amount being sought is £36,825 for 202 hours at an average hourly rate of £182.30. This estimate is based on the anticipated work necessary to the completion of the administration of the case. I do not anticipate that it will be necessary to seek approval for fees in excess of this estimate unless a negotiated settlement of the litigation cannot be reached and the matter proceeds to trial. I believe that my firm's costs in dealing with the matter to trial, excluding solicitors' and counsel's costs would be in excess of another £44,000. However, should additional work be necessary beyond what is contemplated, further approval will be sought from creditors.

General Description	Includes	Estimate of No. of Hours	Estimated blended hourly rate	Estimate of total
Administration and Planning		74	163.31	£12,085.00
Statutory/advertising	Filing of documents to meet statutory requirements Advertising in accordance with statutory requirements Production of a final account	3	205.00	£615.00
Document maintenance/file review/checklist	Filing of documents Periodic file reviews Periodic reviews of the application of ethical, anti-money laundering and anti-bribery safeguards Maintenance of statutory and case progression task lists/diaries Updating checklists	14	£82.86	£1,160.00
Bank account administration	Preparing and submitting correspondence to Bank Bank account reconciliations Correspondence with Bank regarding specific transfers Maintenance of the estate cash book Banking remittances and issuing cheques/BACS payments	7	237.86	£1,665.00
Planning / Review	Discussions regarding strategies to be pursued Meetings with team members and independent advisers to consider practical, technical and legal aspects of the case	12	196.67	£2,360.00
Books and records / storage	Dealing with records in storage Sending job files to storage	6	106.67	£640.00
Creditor reports	Preparing annual progress report, investigation, meeting and general reports to creditors Disclosure of sales to connected parties	20	147.25	£2,945.00
Creditors Decisions	Preparation of decision procedure notices, proxies/voting forms and advertisements Notice of decision procedure to all known creditors Collate and examine proofs and proxies/votes to conclude decisions For virtual or physical meetings: preparation of meeting file, including agenda, certificate of postage, attendance register, list of creditors, reports to creditors, advertisement of meeting and draft minutes of meeting Responding to queries and questions following decisions	12	225.00	£2,700.00
Investigations		38	210.79	£8,010.00
SIP 2 Review	Collection, and making an inventory, of company books and records Correspondence to request information on the company's dealings, making further enquiries of third parties Reviewing questionnaires submitted by creditors and directors Reconstruction of financial affairs of the company Reviewing company's books and records Preparation of deficiency statement Review of specific transactions and liaising with directors regarding certain transactions Liaising with the committee/creditors or major creditors about further action to be taken Advising OR of any matters that may be relevant to their reporting requirements on the director(s)	13	225.00	£2,925.00

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Statutory Reporting	Preparation and Submission of Conduct Report Liaising with Insolvency Service Disqualification Unit	11	203.18	£2,235.00
Examinations	Preparing brief to solicitor Liaising with solicitor(s) regarding examinations Attendance at examination Reviewing examination transcripts Liaising with solicitor(s) regarding outcome of examinations and further actions available	2	245.00	£490.00
Litigation / Recoveries	Strategy meeting regarding litigation Seeking funding from creditors Reviewing terms of solicitors' conditional fee agreements Preparing brief to solicitors/Counsel Liaising with solicitors regarding recovery actions Dealing with ATE insurers Attending to negotiations Attending to settlement matters	12	196.67	££2,360.00
Realisation of Assets		44	194.77	£8,570.00
Sale of Undertaking	Instructing and liaising with agents Preparing an information memorandum Liaising with potential purchasers Agreeing licences to trade/occupy Assessment and review of offers received Negotiating with intended purchaser Liaising with secured creditors and seeking releases Exchanges with solicitors to agree sale and purchase agreement Surrender of lease (where appropriate) Pursuing deferred sale consideration	0	0.00	£0.00
Plant and Equipment	Liaising with valuers, auctioneers and interested parties Reviewing asset listings Liaising with secured creditors and landlords	1	195.00	£195.00
Freehold/Leasehold Property	Liaising with valuers and agents on marketing strategy and offers received Dealing with tenant issues (if any) Liaising with secured creditors and landlords Agreeing assignment, surrender or disclaiming property	3	228.33	£685.00
Debtors	Collecting supporting documentation Correspondence with debtors Reviewing and assessing debtors' ledgers Receiving updates from factoring companies and liaising reassignment of ledger Liaising with debt collectors and solicitors Agreeing debt collection agency agreements Dealing with disputes, including communicating with directors/former staff Pursuing credit insurance claims Submitting VAT bad debt relief claims	14	191.43	£2,680.00
Other Debtors	Collecting supporting documentation Correspondence with debtors Negotiating Settlement Liaising with Solicitors	10	187.00	£1,870.00
Stock	Conducting stock takes Reviewing stock values Liaising with agents and potential purchasers Analysing the value in WIP Contracting with service-providers/suppliers to complete WIP	1	195.00	£195.00

Retention of Title Claims	Receive initial notification of creditor's intention to claim Provision of retention of title claim form to creditor Meeting claimant on site to identify goods Adjudicate retention of title claim Forward correspondence to claimant notifying outcome of adjudication Preparation of payment vouchers and correspondence to claimant to accompany payment of claim (if valid) Exchanges with solicitors in deciding claims and dealing with disputes	0	0.00	£0.00
Other assets: motor vehicles, intangibles, intellectual property, VAT/corporation tax refunds, Insurance claims	Liaising with agents to agree disposal strategy Dealing with potential purchasers Negotiating sales Liaising with solicitors to agree sales Collecting sales consideration Liaising with insurance companies and directors to pursue claims Examining company records to support tax refunds Exchanges with government departments	12	194.17	£2,330.00
Insurance	Identification of potential issues requiring attention of insurance specialists Correspondence with insurer regarding initial and ongoing insurance requirements Reviewing insurance policies Correspondence with previous brokers	3	205.00	615.00
Trading		0	0.00	£0.00
Management of operations	Analysing work in progress Liaising with suppliers to secure supplies and credit terms Negotiating with ransom creditors Establishing new accounts with utility providers Ensuring security of premises, computer system, equipment and stock Liaising with customers to confirm orders and secure undertakings Liaising with management and staff Site Supervision Authorising purchase orders Maintaining purchase order registry Preparing and authorising receipt vouchers Preparing and authorising payment vouchers Liaising with RPO and Job Centre Plus regarding redundancies Arranging new PAYE scheme with HMRC and submitting online payroll returns Concluding payroll and issuing forms P45 when trading ceases Liaising with Pensions regulator regarding auto-enrolment Collecting sales ledger	0	0.00	£0.00
Accounting for trading	Reviewing company's budgets and financial statements Preparing budgets Preparing weekly financial reports Finalising trading profit or loss Trading strategy review VAT returns Obtain sanction to operate local bank account	0	0.00	£0.00
On-going Employee issues	Consultation with staff, employee and Union representatives and sub-contractors Arranging for the election of employee representatives Review of staffing requirements for trading period Deciding on and making redundancies where necessary	0	0.00	£0.00
Creditors		42	170.95	£7,180.00
Creditor Communication	Receive and follow up creditor enquiries via telephone Review and prepare correspondence to creditors and their representatives via facsimile, email and post Assisting employees to pursue claims via the RPO Corresponding with the PPF and the Pensions Regulator	26	194.62	£5,060.00

Dealing with proofs of debt ("POD")	Receipting and filing POD when not related to a dividend Corresponding with RPO regarding POD when not related to a dividend	8	71.25	£570.00
Processing proofs of debt	Preparation of correspondence to potential creditors inviting submission of POD Receipt of POD Adjudicating POD Request further information from claimants regarding POD Preparation of correspondence to claimant advising outcome of adjudication	2	160.00	£320.00
Dividend procedures	Agreeing allocation of realisations and costs between fixed and floating charges Paying distribution to secured creditors and seeking confirmation of discharged claims Preparation of correspondence to creditors advising of intention to declare distribution Advertisement of notice of intended dividend Preparation of distribution calculation Preparation of correspondence to creditors announcing declaration of distribution Preparation of cheques/BACS to pay distribution Preparation of correspondence to creditors enclosing payment of distribution Seeking unique tax reference from HMRC, submitting information on PAYE/NI deductions from employee distributions and paying over to HMRC Dealing with unclaimed dividends	6	205.00	£1,230.00
Liquidation Committee	Holding an initial meeting of the Committee Reporting to committee members Seeking the committee's approval on case strategy Calling and holding meetings of the committee as required and the circumstances of the case dictate <i>Assumes no committee formed</i>	0	0.00	£0.00
Miscellaneous	Tax, general accounting etc	4	245.00	£980.00
Total		202	182.30	£36,825.00

Current Charge-out Rates for the firm

Time charging policy

Support staff do **not** charge their time to each case.

Support staff include cashier, secretarial and administration support.

The minimum unit of time recorded is 6 minutes.

Staff	Charge out rates £ per hour
Insolvency Practitioner/Partners	295
Manager	195
Junior Administrator	125
Secretarial/Administration support staff	0

APPENDIX 7

ADMINISTRATIONS

A CREDITOR'S GUIDE TO ADMINISTRATORS' FEES

Where Petition Presented or Appointment Made on or After 15 September 2003

ENGLAND AND WALES

1 INTRODUCTION

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 three and a maximum of five 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 six 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 ADMINISTRATORS' FEES

4.1 The basis for fixing the Administrator's remuneration is set out in Rules 18.16, 18.17, 18.18 and 18.23 of the Insolvency (England and Wales) Rules 2016, which states that it shall be fixed either:

- as a percentage of the value of the property which the Administrator has to deal with, or
- by reference to the time properly given by the Administrator and his staff in attending to matters arising in the administration

It is for the creditors' committee (if there is one) to determine on which of these bases the remuneration is to be fixed, and if it is fixed as a percentage fix, the percentage to be applied. Rules 18.16(9) 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, and
 - 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, the Administrator's remuneration may be fixed by a resolution of a meeting of creditors having regard to the same matters as the committee would. If the remuneration is not fixed in any of these ways, it will be fixed by the court on application by the Administrator.
- 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 WHAT INFORMATION SHOULD BE PROVIDED BY THE ADMINISTRATOR?

5.1 When Seeking Fee Approval

- 5.1.1 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.
- 5.1.2 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
- 5.1.3 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, and
- Any other case-specific matters.

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

- Partner
- Manager
- Other senior professionals, and
- 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, and
- any existing agreement about fees.

5.1.4 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.

5.1.5 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.

5.1.6 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.

5.2 After Fee Approval

5.2.1 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. 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 5.1.3. Where the fee is charged on a percentage basis the Administrator should provide the details set out in paragraph 5.1.4 above regarding work, which has been sub-contracted out.

5.3 Expenses and Disbursements

- 5.3.1 There is no statutory requirement for the committee or the creditors to approve the drawing of expenses or disbursements. However, 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.

6 WHAT IF A CREDITOR IS DISSATISFIED?

- 6.1 If a creditor believes that the Administrator's remuneration is too high he may, if at least 25 per cent in value of the creditors (including himself) agree, apply to the court for an order that it be reduced. 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. Unless the court orders otherwise, the costs must be paid by the applicant and not as an expense of the administration.

7 WHAT IF THE ADMINISTRATOR IS DISSATISFIED?

- 7.1 If the Administrator considers that the remuneration fixed by the creditors' committee is insufficient he may request that it be increased by resolution of the creditors. If he considers that the remuneration fixed by the committee or the creditors is insufficient, he may apply to the court for it to be increased. 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.

8 OTHER MATTERS RELATING TO FEES

- 8.1 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.
- 8.2 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.

9 PROVISION OF INFORMATION – ADDITIONAL REQUIREMENTS

- 9.1 In any case where the Administrator is appointed on or after 1 April 2005 he must provide certain information about time spent on a case, free of charge, upon request by any creditor, director or shareholder of the company.
- 9.2 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, and
 - the number of hours spent by each grade of staff in the relevant period.
- 9.3 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.
- 9.4 The Administrator must provide the information within 28 days of receipt of the request, and requests must be made within two years from vacation of office.

ADMINISTRATOR'S PROPOSALS

Statement of Administrator's Proposals pursuant to Paragraph 49 of Schedule B1 of the Insolvency Act 1986

In accordance with Paragraph 49 of Schedule B1 of the Insolvency Act 1986 (the Act) and The Insolvency (England and Wales) Rules 2016 (the Rules), I Edwin Kirker, the Administrator of Excel Construction (Kent) Ltd (the Company), makes the following Proposals for achieving the purpose of the Administration.

These Proposals and the attached report to creditors together set out the information required by and discharge the Administrator's duty pursuant to Paragraph 49 of Schedule B1 of the Act and Rule 3.35 and 3.36 of the Rules.

Proposals

The Administrator proposes that:

- (a) He continues to manage the business, affairs and property of the Company in order to achieve the purpose of the Administration such that
 - (i) he disposes of the Company's ownership of such assets at such time(s) on such terms as he considers expedient
 - (ii) he investigates and, if appropriate, pursues any claims that the Company may have against any person, firm or company whether in contract or otherwise, including any officer or former officer of the Company or any person, firm or company which supplies or has supplied goods or services to the Company, and
 - (iii) in addition, he does all such things and generally exercise all his powers as Administrator as in his discretion he considers desirable or expedient in order to achieve the purpose of the Administration or protect and preserve the assets of the Company or maximise the realisations of those assets, or of any purpose incidental to these Proposals.
- (b) In the event that the Administrator is of the view that it is appropriate for the Company to move from Administration into CVA, the Administrator be authorised to take steps to issue proposals for a CVA under Part 1 of the Insolvency Act 1986, as he deems appropriate.
- (c) In the event that the Administrator is of the view that it is appropriate for the Company to move from Administration into Liquidation, whether compulsory or voluntary, the Administrator be authorised to take steps to place the Company into whichever process he deems appropriate. In either circumstance, it is proposed that the Administrator takes the appointment as Liquidator of the Company. In relation to moving into Creditors' Voluntary Liquidation, and in accordance with Paragraph 83(7) and Rule 2.117 (3), creditors may nominate a different person as the proposed Supervisor or Liquidator, provided that the nomination is made after the receipt of the Proposals and before 12 noon on Wednesday 30 January 2019.
- (d) If the Administrator considers that there will be no distribution to unsecured creditors (apart from the Prescribed Part, if any), and if he also considers that an exit from the Administration into Compulsory Liquidation is not appropriate, then the Administrator be authorised to take the necessary procedural steps to bring about the end of the Administration and move the Company into dissolution pursuant to Paragraph 84 of Schedule B1 to the Act.

- (e) The Administration shall continue (subject to the statutory provisions relating to automatic termination) until the realisable assets of the Company have been realised and all liabilities incurred during the Administration have been discharged or until such a time as deemed appropriate by the Administrator. At this stage the Company shall be dissolved or placed into Liquidation as outlined above. If necessary, the Administrator will propose to seek an extension of his appointment as Administrator from the creditors and/or the Court pursuant to Paragraph 76 of Schedule B1 to the Act.
- (f) Upon the Company either proceeding into Creditors Voluntary Liquidation or dissolution as set out above, the Administrator's discharge from liability, pursuant to Paragraph 98 of Schedule B1 shall take effect 14 days following either the Company entering into Liquidation or filing the notice of moving from Administration to dissolution.
- (g) The Administrator be at liberty to incur and pay such costs and expenses, including professional fees, as considered being incidental to the achievement of the purpose of the Administration or for the purposes set out herein or to the Administrator's statutory duties. The Administrator proposes to be remunerated by reference to time properly spent both for his services as Administrator and also for his staff in attending to the matters arising in the Administration of the Company, charged at the charge out rates prevailing at the time the work is undertaken. The Creditors' Committee will agree the Administrators' remuneration or in the event that creditors form no Committee, by a meeting of creditors.
- (h) Kirker & Co.'s costs and expenses relating to planning and acceptance of the appointment be treated as an expense of the Administration (albeit incurred prior to the date of appointment) and calculated by reference to the charge out rates prevailing at the time the work is undertaken.
- (i) Kirker & Co.'s costs and expenses relating to any matters undertaken prior to the appointment of the Administrator that would normally be incurred by the Administrator following his appointment including but not limited to negotiations with interested parties be treated as an expense of the Administration and calculated by reference to the charge out rates prevailing at the time the work is undertaken.
- (j) The Administrator be at liberty to recharge disbursements as detailed in the circulated Creditor's Guide to Administrators' Fees. Costs are to be charged as follows.
 - Mileage 45p per mile
 - Administrator's Bond At cost
 - Statutory Advertising and Postage At cost
- (k) The Administrator be at liberty to pay costs and remuneration in relation to Proposals (f), (g), (h) and (i) above as and when funds become available.
- (l) The Administrator consult with the creditors' committee, if formed, at appropriate intervals concerning the conduct of the Administration and the implementation and development of these Proposals and where they consider it expedient obtain the sanction of that committee on behalf of the creditors of the Company (and without further reference to them) to any proposed action on the part of the Administrator



Edwin Kirker
Administrator

APPENDIX 9

**IN THE MATTER OF THE INSOLVENCY ACT 1986
AND
IN THE MATTER OF THE INSOLVENCY (ENGLAND AND WALES) RULES 2016**

EXCEL CONSTRUCTION (KENT) LTD (IN ADMINISTRATION)

COMPANY NUMBER: 07699983

HIGH COURT OF JUSTICE No. CR – 2018 - 010025

**NOTICE TO CREDITORS IN ACCORDANCE WITH PARAGRAPH 51 OF SCHEDULE B1 TO THE
INSOLVENCY ACT 1986 AND IN ACCORDANCE WITH RULE 15.8 OF INSOLVENCY (ENGLAND
AND WALES) RULES 2016**

DECISION PROCESS BY CORRESPONDENCE

I, Edwin David Stanley Kirker, of Kirker & Co, Centre 645, 2 Old Brompton Road, South Kensington, London SW7 3DQ was appointed Administrator of the Company on 21 November 2018.

Notice is hereby given pursuant to Paragraph 51 of Schedule B1 to The Insolvency Act 1986 that the creditors are being asked to consider the Administrator's Proposals by correspondence.

To participate in the vote, creditors will need to return a Voting Form and Proof of Debt to my office at Kirker & Co, Centre 645, 2 Old Brompton Road, South Kensington, London, SW7 3DQ, or by fax to 020 3137 8719, or via email to edwin@kirker.co.uk by 23:59 on Wednesday 30 January 2019 ("the Decision Day").

The resolutions that are to be considered are:

- a) That the Administrator continues the Administration to deal with such outstanding matters in relation to the Company as the Administrator considers necessary until such time as the Administration ceases to have effect.
- b) That the Administrator does all such other things and generally exercises all of his powers contained in Schedule B1 of the Act as his sole and absolute discretion considers desirable and expedient in order to achieve the purpose of the Administration.
- c) To seek an extension of the Administration period if deemed necessary pursuant to Paragraph 76 of Schedule B1 to the Insolvency Act 1986.
- d) That the Administrator, once all outstanding matters have been satisfactorily completed, take the necessary steps to give notice to the Registrar of Companies to move from Administration to Creditors' Voluntary Liquidation. In such circumstances, Edwin Kirker will be appointed as Liquidator. Creditors may nominate a different person(s) as the proposed Liquidator or Liquidators in accordance with Paragraph 87(7)(a) of Schedule B1 of the Act and Rule 3.60(6)(b) of the Rules but they must make the nomination or nominations any time after they receive the statement Proposals but before it is approved. In the absence of such nominations, the Administrator will be appointed Liquidator.
- e) The Administrator be discharged from all liability pursuant to Paragraph 98 of Schedule B1 of the Act upon filing the end of the Administration or his otherwise ceasing to act.

APPENDIX 9 (cont.)

- f) That in the event that no Creditors' Committee is formed, that the Administrator's remuneration be fixed by reference to the time properly given by him and his staff in attending to matters arising in the Administration as set out in the Fee Estimate.
- g) That the unpaid Pre-Appointment costs as set out in the Proposals be approved by payment as an expense of the Administration.
- h) That the basis of the recharging of the Administrator's Category 2 Disbursements be fixed by reference to the rates set out in the Administrator's Proposals and that he be authorised to be reimbursed such disbursements as and when funds permit.

Statutory Information and Creditor Entitlement to Vote

In accordance with Rule 15.8 of the Insolvency (England and Wales) Rules 2016 ("the Rules"), please be aware of the following information:

- Creditors are only entitled to vote if they have submitted a Proof of Debt Form prior to the Decision Date and the claim has been accepted in whole or in part, together with a Voting Form. Whilst I am permitted to agree claims below £1,000 without a Proof of Debt, a creditor whose claim is less than £1,000 is not able to vote without having lodged a Proof of Debt Form. Creditors who opted-out from receiving notices may, nevertheless vote if a Proof of Debt has been lodged.
- Creditors must lodge their Voting Form no later than 23:59 on Wednesday 30 January 2019. Forms should be sent either by post to Kirker & Co, Centre 645, 2 Old Brompton Road, South Kensington, London, SW7 3DQ, by fax to 020 3137 8719, or via email to edwin@kirker.co.uk
- Secured creditors may only vote for the balance of their debt, which will not be recovered by enforcement of the security, unless the right to enforce is waived.
- I am obliged to advise creditors that applications to have any decisions reviewed must be made to the High Court of Justice, Business and Property Court of England & Wales, Insolvency and Companies List, under reference CR – 2018 - 010025. Any such application should be made within 21 days of the Decision Date.
- If any creditor is of the opinion that they have been excluded from the decision process or that the exclusion of another has adversely affected their position a complaint may be made to Edwin Kirker, the convenor of the vote. Any complaint must be made as soon as reasonably practical.
- Creditors' attention is further drawn to Rule 15.28, 15.31, 15.32 and 15.34 which details the rules for voting. Extracts of these rules have been included with this Notice at Appendix 12.
- If creditors are not satisfied with the decision procedure implementation they may request a physical meeting be convened provided their claim is 10% of the value of creditors, or 10% of the number of creditors request the same, or 10 individual creditors request that a meeting be convened. All requests to hold a physical meeting should be made within five business days of delivery of this notice.

Signed



Administrator

Dated

14 January 2019

APPENDIX 10

VOTING FORM

Excel Construction (Kent) Ltd (In Administration)

Name of Creditor: _____

Address: _____

Decisions:

1.	That the Administrator continues the Administration to deal with such outstanding matters in relation to the Company as the Administrator considers necessary until such time as the Administration ceases to have effect.	*For / Against
2	That the Administrator does all such other things and generally exercises all of his powers contained in Schedule B1 of the Act as his sole and absolute discretion considers desirable and expedient in order to achieve the purpose of the Administration.	*For / Against
3	To seek an extension of the Administration period if deemed necessary pursuant to Paragraph 76 of Schedule B1 to the Insolvency Act 1986.	*For / Against
4	That if the Administrator is of the view that it is appropriate for the Company to move from Administration into CVA, the Administrator be authorised to take steps to issue proposals for a CVA under Part 1 of the Insolvency Act 1986, as he deems appropriate.	*For / Against
5	That the Administrator, once all outstanding matters have been satisfactorily completed, take the necessary steps to give notice to the Registrar of Companies to move from Administration to Creditors' Voluntary Liquidation. In such circumstances, Edwin Kirker will be appointed as Liquidator. Creditors may nominate a different person(s) as the proposed Liquidator or Liquidators in accordance with Paragraph 87(7)(a) of Schedule B1 of the Act and Rule 3.60(6)(b) of the Rules but they must make the nomination or nominations any time after they receive the statement Proposals but before it is approved. In the absence of such nominations, the Administrator will be appointed Liquidator.	*For / Against
6	That if the Administrator considers that there will be no distribution to unsecured creditors (apart from the Prescribed Part, if any), and if he also considers that an exit from the Administration into Compulsory Liquidation is not appropriate, then the Administrator be authorised to take the necessary procedural steps to bring about the end of the Administration and move the Company into dissolution pursuant to Paragraph 84 of Schedule B1 to the Act.	*For / Against

7	The Administrator be discharged from all liability pursuant to Paragraph 98 of Schedule B1 of the Act upon filing the end of the Administration or his otherwise ceasing to act.	*For / Against
8	That in the event that no Creditors' Committee is formed, that the Administrator's remuneration be fixed by reference to the time properly given by him and his staff in attending to matters arising in the Administration as set out in the Fee Estimate.	*For / Against
9	That the unpaid Pre-Appointment costs as set out in the Proposals be approved by payment as an expense of the Administration.	*For / Against
10	That the basis of the recharging of the Administrator's Category 2 Disbursements be fixed by reference to the rates set out in the Administrator's Proposals and that he be authorised to be reimbursed such disbursements as and when funds permit.	*For / Against

*** Please delete as applicable to indicate your voting instructions**

Signed: _____

Dated:

Name in Capitals:

Position with, or relationship to, creditor or other authority for signature:

Are you the sole member/shareholder of the creditor (where it is a company)?

Yes / No

Please complete this form and return it, along with a completed Proof of Debt if you have not submitted one previously, so that it is delivered by 23:59 on Wednesday 30 January 2019, by:

Post: Edwin D. S. Kirker,
 Kirker & Co,
 Centre 645
 2 Old Brompton Road,
 South Kensington
 London
 SW7 3DQ

Fax: +44 (0) 20 3137 8719

Email: please scan in a signed copy of this form and attach it as a pdf to edwin@kirker.co.uk

APPENDIX 11

PROOF OF DEBT FORM

EXCEL CONSTRUCTION (KENT) LTD
(IN ADMINISTRATION)

DATE OF ADMINISTRATION: 21 NOVEMBER 2018

Name of Creditor	
Address of Creditor	

Amount of Claim	£
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Goods or Service Provided	
Account No.	

Security Held	
Value of Security	£

I/We hereby confirm that the above sums are due from the subject Company

Signature	
Name	
Position Held	
Email Address	
Date	

APPENDIX 12

EXTRACTS FROM THE INSOLVENCY (ENGLAND AND WALES) RULES 2016

MATTERS RELATING TO VOTING

Creditors' Voting Rights

15.28 - (5) In a decision relating to a proposed CVA or IVA every creditor, secured or unsecured, who has notice of the decision procedure, is entitled to vote in respect of that creditor's debt.

Calculation of Voting Rights

15.31 - (1) Votes are calculated according to the amount of each creditor's claim—

- (a) in an administration, as at the date on which the company entered administration, less—
 - (i) any payments that have been made to the creditor after that date in respect of the claim, and
 - (ii) any adjustment by way of set-off which has been made in accordance with rule 14.24 or would have been made if that rule were applied on the date on which the votes are counted;
- (2) A creditor may vote in respect of a debt of an unliquidated or unascertained amount if the convener or chair decides to put upon it an estimated minimum value for the purpose of entitlement to vote and admits the claim for that purpose
- (4) Where a debt is wholly secured its value for voting purposes is nil.
- (5) Where a debt is partly secured its value for voting purposes is the value of the unsecured part
- (6) However, the value of the debt for voting purposes is its full value without deduction of the value of the security in the following cases—
 - (a) where the administrator has made a statement under paragraph 52(1)(b) of Schedule B1 and the administrator has been requested to seek a decision under paragraph 52(2),
- (7) No vote may be cast in respect of a claim more than once on any resolution put to the meeting; and for this purpose (where relevant), the claim of a creditor and of any member State liquidator in relation to the same debt are a single claim
- (8) A vote cast in a decision procedure, which is not a meeting, may not be changed.
- (9) Paragraph (7) does not prevent a creditor or member State liquidator from—
 - (a) voting in respect of less than the full value of an entitlement to vote; or
 - (b) casting a vote one way in respect of part of the value of an entitlement and another way in respect of some or all of the balance of that value

Requisite Majorities

15.34 - (1) A decision is made by creditors when a majority (in value) of those voting have voted in favour of the proposed decision, except where this rule provides otherwise

- (2) In the case of an administration, a decision is not made if those voting against it—
 - (a) include more than half in value of the creditors to whom notice of the decision procedure was delivered; and
 - (b) are not, to the best of the convener or chair's belief, persons connected with the company.
- (3) Each of the following decisions in a proposed CVA is made when three-quarters or more (in value) of those responding vote in favour of it -
 - (a) a decision approving a proposal or a modification;
 - (b) a decision extending or further extending a moratorium, or
 - (c) a decision bringing a moratorium to an end before the end of the period of any extension
- (4) In a proposed CVA a decision is not made if more than half of the total value of the unconnected creditors vote against it

(5) For the purposes of paragraph (4) –

- (a) a creditor is unconnected unless the convener or chair decides that the creditor is connected with the company;
- (b) in deciding whether a creditor is connected reliance may be placed on the information provided by the company's statement of affairs or otherwise in accordance with these Rules, and
- (c) the total value of the unconnected creditors is the total value of those unconnected creditors whose claims have been admitted for voting

(6) In a case relating to a proposed IVA –

- (a) a decision approving a proposal or a modification is made when three-quarters or more (in value) of those responding vote in favour of it,
- (b) a decision is not made if more than half of the total value of creditors who are not associates of the debtor vote against it

(7) For the purposes of paragraph (6) –

- (a) a creditor is not an associate of the debtor unless the convener or chair decides that the creditor is an associate of the debtor;
- (b) in deciding whether a creditor is an associate of the debtor, reliance may be placed on the information provided by the debtor's statement of affairs or otherwise in accordance with these Rules; and
- (c) the total value of the creditors who are not associates of the debtor is the total value of the creditors who are not associates of the debtor whose claims have been admitted for voting.

Appeals Against Decisions Under This Chapter

15.35 – (1) A decision of the convener or chair under this Chapter is subject to appeal to the court by a creditor, by a contributory, or by the bankrupt or debtor (as applicable).

(2) In a proposed CVA, an appeal against a decision under this Chapter may also be made by a member of the company

(3) If the decision is reversed or varied, or votes are declared invalid, the court may order another decision procedure to be initiated or make such order as it thinks just but, in a CVA or IVA, the court may only make an order if it considers that the circumstances which led to the appeal give rise to unfair prejudice or material irregularity.

(4) An appeal under this rule may not be made later than 21 days after the decision date.

(5) However, the previous paragraph does not apply in a proposed CVA or IVA, where an appeal may not be made after the end of the period of 28 days beginning with the day—

- (a) in a proposed CVA, on which the first of the reports required by section 4(6) or paragraph 30(3) of Schedule A1 was filed with the court(); or
- (b) in a proposed IVA—
 - (i) where an interim order has not been obtained, on which the notice of the result of the consideration of the proposal required by section 259(1)(a) has been given, or
 - (ii) otherwise, on which the report required by section 259(1)(b)() is made to the court.

(6) The person who made the decision is not personally liable for costs incurred by any person in relation to an appeal under this rule unless the court makes an order to that effect

(7) The court may not make an order under paragraph (6) if the person who made the decision in a winding up by the court or a bankruptcy is the official receiver or a person nominated by the official receiver.

Complaint

15.38 – (1) A person may make a complaint who –

- (a) is, or claims to be, an excluded person, or
- (b) attends the meeting and claims to have been adversely affected by the actual, apparent or claimed exclusion of another person

(2) The complaint must be made to the appropriate person who is –

- (a) the chair, where the complaint is made during the course of the meeting, or
 - (b) the convener, where it is made after the meeting
- (3) The complaint must be made as soon as reasonably practicable and, in any event, no later than 4pm on the business day following—
 - (a) the day on which the person was, appeared or claimed to be excluded, or
 - (b) where an indication is sought under rule 15.37, the day on which the complainant received the indication.
- (4) The appropriate person must, as soon as reasonably practicable following receipt of the complaint, -
 - (a) consider whether there is an excluded person,
 - (b) where satisfied that there is an excluded person, consider the complaint; and
 - (c) where satisfied that there has been prejudice, take such action as the appropriate person considers fit to remedy the prejudice
- (5) Paragraph (6) applies where the appropriate person is satisfied that the complainant is an excluded person and -
 - (a) a resolution was voted on at the meeting during the period of the person's exclusion; and
 - (b) the excluded person asserts how the excluded person intended to vote on the resolution.
- (6) Where the appropriate person is satisfied that if the excluded person had voted as that person intended it would have changed the result of the resolution, then the appropriate person must, as soon as reasonably practicable, -
 - (a) count the intended vote as having been cast in that way,
 - (b) amend the record of the result of the resolution,
 - (c) where notice of the result of the resolution has been delivered to those entitled to attend the meeting, deliver notice to them of the change and the reason for it, and
 - (d) where notice of the result of the resolution has yet to be delivered to those entitled to attend the meeting, the notice must include details of the change and the reason for it.
- (7) Where satisfied that more than one complainant is an excluded person, the appropriate person must have regard to the combined effect of the intended votes.
- (8) The appropriate person must deliver notice to the complainant of any decision as soon as reasonably practicable.
- (9) A complainant who is not satisfied by the action of the appropriate person may apply to the court for directions and any application must be made no more than two business days from the date of receiving the decision of the appropriate person.

APPENDIX 13

NOTICE OF INVITATION TO FORM A CREDITORS' COMMITTEE

Company Name: Excel Construction (Kent) Ltd – In Administration ("the Company")

Company Number: 07699983

High Court of Justice, Business and Properties Court of England & Wales, Insolvency and Companies List No CR – 2018 - 010025

This Notice is given in accordance with Paragraph 57 of Schedule B1 to the Insolvency Act 1986, Rules 3.39 and Part 17 of the Insolvency (England and Wales) Rules 2016 ("the Rules") Rule 6.19 of the Insolvency (England & Wales) Rules 2016 ("the Rules").

Creditors are invited to nominate creditors (which may include themselves) by completing the section below and returning this Notice to the Administrator by one of the following methods.

By Post to: c/o Edwin D. S. Kirker
Kirker & Co
Centre 645
2, Old Brompton Road,
South Kensington
London
SW7 3DQ

By Fax to: +44 (0) 20 3137 8719

By email to: edwin@kirker.co.uk

Notice is delivered by the Administrator of the Company, Edwin Kirker of Kirker & Co, Centre 645, 2 Old Brompton Road, South Kensington, London, SW7 3DQ (Telephone 020 7580 6030), who was appointed by the director.

Please note that, if you are sending nominations by post, you must ensure that you have allowed sufficient time for the Notice to be delivered to the address above by the time set out below. Unless the contrary is shown, an email is treated as delivered at 9am on the next business day after it was sent.

All nominations must be delivered by: 12 noon on Wednesday 30 January 2019

Nominations can only be accepted if the Administrator is satisfied as to the nominated creditor's eligibility under Rule 17.4 of the Rules.

For further information on the role of Liquidation Committees, go to:

<https://www.r3.org.uk/media/documents/publications/professional/R3%20Guide%20to%20Creditors%20Committees.pdf>



Edwin Kirker
Administrator and Convenor

Dated 14 January 2019

APPENDIX 13 (Cont.)

NOMINATIONS FOR MEMBERS OF A CREDITORS' COMMITTEE

EXCEL CONSTRUCTION (KENT) LTD (IN ADMINISTRATION)

On behalf of (Name of Creditor):

At (Address of Creditor):

I nominate the following creditor(s) to be member(s) of a Creditors' Committee (provide name(s) and address(es)):

1. _____
2. _____
3. _____

Signed.

Dated

Name in Capitals:

Position with, or relationship to, Creditor or other authority for signature:

Are you the sole member/shareholder of the Creditor (where it is a company)?

Yes / No

APPENDIX 14

OPTING OUT OF RECEIVING DOCUMENTS

The Consequences of Opting Out

As previously advised, most future documents will not be sent to creditors by post. Nevertheless, the Administrator is required to inform creditors of their rights to opt out of receiving documents.

Creditors have the right to elect to opt out of receiving further documents about the Administration unless.

- (i) the Insolvency Act 1986 requires a document to be delivered to all creditors without expressly excluding opted-out creditors;
- (ii) it is a notice relating to a change in the office-holder or the office-holder's contact details; or
- (iii) it is a notice of a dividend or proposed dividend or a notice which the court orders to be sent to all creditors or all creditors of a particular category to which the creditor belongs.

Opting-out will not affect the creditor's entitlement to receive dividends should any be paid to creditors.

Unless the Insolvency (England & Wales) Rules 2016 provide to the contrary, opting-out will not affect any right the creditor may have to vote in a decision procedure or a participate in a deemed consent procedure in the proceedings although the creditor will not receive notice of it.

A creditor who opts out will be treated as having opted out in respect of any consecutive insolvency proceedings of a different kind in respect of the same company.

How to Opt Out

A creditor may at any time elect to be an opted-out creditor.

The creditor's election to opt out must be by a notice in writing authenticated and dated by the creditor.

The creditor must deliver the notice to the Administrator (details below).

How to Opt Back In

The creditor may at any time revoke the election to opt out by a further notice in writing, authenticated and dated by the creditor and delivered to the Administrator (details below).

Contact Details

The Administrator's contact details are as follows:

Edwin D. S. Kirker
Kirker & Co
Centre 645
2 Old Brompton Road
London SW7 3DQ

Office Holder No. 8227

+44(0) 20 7580 6030
edwin@kirker.co.uk