

JOINT ADMINISTRATORS' CONSENT

UNDER PARAGRAPH 64 OF SCHEDULE B1 TO THE INSOLVENCY ACT 1986

Pursuant to paragraph 64 of Schedule B1 to the Insolvency Act 1986 (“**IA86**”), [ADD NAMES OF THE ADMINISTRATORS] (the “**Joint Administrators**”), the joint administrators of [ADD NAME OF COMPANY] (the “**Company**”), hereby consent to the exercise of the powers set out below by the directors of the Company (the “**Directors**”), subject always to the restrictions and conditions set out below.

For the avoidance of doubt, the Joint Administrators has only provided this consent to the exercise of these powers on that basis that they are satisfied that the company can be rescued as a going concern and, in particular, that the company has sufficient working capital to pay key post-administration costs such as rent, employee salaries, utilities and suppliers on an ongoing basis.

The Joint Administrators do not consent to the exercise of any other powers by the Directors, although they remain willing to consider any additional requests for further consents that may be required to achieve the rescue of the Company as a going concern.

PART 1 - Powers

1. The power to acquire stock-in-trade of the type ordinarily purchased by the Company in the ordinary course of the Company’s business, subject to monetary limits of:
 - 1.1. [ADD AMOUNT] per single transaction or group of related transactions; and
 - 1.2. [ADD AMOUNT] in total per [week] [month].
2. The power to dispose of stock-in-trade [and other assets] of the type that would ordinarily be disposed of in the ordinary course of the Company’s business, subject to:
 - 2.1. [ADD AMOUNT] per single transaction or group of related transactions; and
 - 2.2. [ADD AMOUNT] in total per [week] [month].
3. The power to enter into and perform obligations under contracts for the provision and/or the receipt of services by the Company of the type that would ordinarily be entered into and performed of in the ordinary course of the Company’s business, subject to:
 - 3.1. [ADD AMOUNT] per single transaction or group of related transactions; and
 - 3.2. [ADD AMOUNT] in total per [week] [month].
4. The power to pay any salaries (or other payments for services) due under any pre-administration contracts to any employees, contractors or agents, subject to a limit of [ADD AMOUNT] [net of tax] [gross] per person per [week] [month].
5. The power to make any other payments in return for services, subject to:
 - 5.1. [ADD AMOUNT] per single transaction or group of related transactions; and
 - 5.2. [ADD AMOUNT] in total per [week] [month].
6. The power to incur credit with suppliers and other counterparties, subject to:

- 6.1. [ADD AMOUNT] per single transaction or group of related transactions; and
- 6.2. [ADD AMOUNT] in total per [week] [month].
7. [ADD ANY FURTHER OR OTHER POWERS WHICH THE DIRECTORS NEED TO EXERCISE IN ORDER TO RESCUE THE COMPANY AS A GOING CONCERN.]

PART 2 – Conditions

1. The powers set out above shall be exercised only for the purpose of achieving the rescue of the Company as a going concern.
2. The Directors shall forthwith ensure that they safeguard and maintain the books and records of the company (including the retention of emails).
3. The Directors shall forthwith ensure that: (i) the Joint Administrators are provided with details of the Company's bank accounts (including sort codes and account numbers); and (ii) the Joint Administrators are authorised to communicate with the Company's bank(s) and to obtain online access to the Company's bank accounts.
4. Any proceeds of sale of any of the Company's stock-in-trade [or other assets] and any other sums payable to the Company shall be deposited immediately into a bank account in the name of the Company to which the Joint Administrators are signatories.
5. The Directors shall prepare [weekly] [monthly] management accounts [and such other records of a type that would ordinarily be prepared by the Directors] showing a true and fair view of the assets, liabilities, financial position and profit or loss of the Company.
6. The Directors shall provide such management accounts [and other books and records] to the Joint Administrators on a [weekly] [monthly] basis during the administration.
7. The Directors shall inform the Joint Administrators immediately of any threatened or actual termination by contractual counterparties (or requests by counterparties to vary terms).
8. The Directors shall inform the Joint Administrators immediately of any fact or other information which could suggest to a reasonable person that there is no longer any reasonable prospect of achieving the rescue of the Company as a going concern.
9. Without prejudice to the foregoing, the Directors shall provide a report to the Joint Administrators on the business and affairs of the Company by telephone or video-link: (i) every [24] [48] hours during the first [ADD NUMBER OF WEEKS] weeks of the Company's administration; and (ii) every [ADD NUMBER OF DAYS] days thereafter.
10. The Directors shall obtain the Joint Administrators' prior written consent before: (i) paying any salaries or other sums to any of the Directors or any other persons connected with the Company within the meaning of section 249 of the Insolvency Act 1986; or (ii) entering into any other transactions with the Directors or with such persons.
11. [ADD ANY FURTHER OR OTHER CONDITIONS WHICH THE JOINT ADMINISTRATORS WISH TO IMPOSE.]

PART 3 - Termination

1. The Joint Administrators are entitled to vary or terminate this consent at any time (subject to the Directors' right to apply to the Court, on notice to the Joint Administrators) to challenge the Joint Administrators' decision to do so).

Signed by: _____

For and on behalf of the Joint Administrators

Dated: _____

Notes:

- (i) All amounts stated above exclude any applicable VAT.
- (ii) For the avoidance of doubt, this consent does not affect, and is without prejudice to, the rights and duties of the Joint Administrators and the Directors under any applicable laws.

EXPLANATORY NOTE

As a result of the COVID-19 crisis, the UK business community is experiencing unprecedented financial distress and liquidity issues. The nationwide "lockdown" has deprived companies of cash-flow that would ordinarily be used to service day-to-day debts and periodic liabilities (e.g. rent and business rates). The UK administration regime is an essential tool to assist in the rescue of otherwise viable enterprises and is sufficiently flexible to allow a bespoke administration process that is specifically designed to promote the rescue of viable businesses whilst simultaneously addressing the volume and scale of the current difficulties. The consent protocol ("**the Consent Protocol**") is an integral part of this bespoke administration regime, which is intended to create long-term solutions to what is hopefully a short-term problem, saving businesses and livelihoods across the UK.

The primary statutory objective of administration under paragraph 3(1) of Schedule B1 to the Insolvency Act 1986 ("**Schedule B1**") is "rescuing the company as a going concern" ("**Rescue Administration**"). Paragraph 64 of Schedule B1 provides the administrator with a broad power to give consent (whether general or specific) to the continuing management of the company by the existing directors under the administrator's supervision, without seeking creditor approval.

Where the primary objective of an administration is to rescue the company as a going concern, the Consent Protocol is intended to provide a framework to allow the Directors to play a central role in stabilising and rescuing the company under the administrator's supervision.

For the avoidance of doubt, the Joint Administrators has only provided this consent to the exercise of these powers on that basis that they are satisfied that the company can be rescued as a going concern and, in particular, that the company has sufficient working capital to pay

key post-administration costs/expenses such as rent, employee salaries, utilities and suppliers on an ongoing basis.

It is envisaged that the Consent Protocol can be executed and implemented without the need for an application to the Court. This will reduce unnecessary work for the Courts (at a time when their resources are severely stretched) and save time and costs.

The Consent Protocol can be applied to companies of all sizes, and its terms should be adapted to fit the particular circumstances of the case.

The main features of the Consent Protocol are: (a) the identification of broad management powers which can continue to be exercised by the Directors (which, to be clear, does not involve the delegation of any of the administrator's powers to the Directors); and (b) the identification of specific conditions with which the Directors must comply in order to exercise those powers.

The Consent Protocol contains suggested transaction limits, which should be set at sufficiently high levels to enable the company to engage in ordinary business transactions without requiring permission from administrator. The intention is therefore for the transaction limits to be set at levels which exclude unusually large transactions. This will vary from company to company.

The powers set out in the Consent Protocol are illustrative, and should be deleted, amended or supplemented according to the circumstances of the case.

The core requirement is the Directors' obligation to report periodically to the administrator and to inform the administrator of any information that could suggest to a reasonable person that there is no longer any reasonable prospect of rescuing the company as a going concern.

The Joint Administrators' consent in Part 1 is intended to enable the Directors to conduct the day-to-day management of the company's business. However, the Directors shall not without the prior consultation of the Joint Administrators:

- Enter into, renew, adopt, or vary any contract of employment.
- Negotiate or otherwise vary the terms of any business lease with the company's landlord(s).
- Negotiate or otherwise vary the terms of any contract for the supply of essential goods and services as defined in Section 233 of IA86.
- Borrow money.

During the Rescue Administration, the central role of the administrator will be the ongoing supervision of the Directors' attempts to stabilise and rescue the company.

Since the immediate cause of the company's difficulties will in most cases be obvious and a rescue remains reasonably likely, it would be premature for the administrator to conduct detailed investigations into the reasons for the company entering administration. However, for the Directors to be permitted to exercise management powers, the administrator will first need to be satisfied that they have no grounds to suspect that the conduct of any of the Directors renders them unfit to be concerned in the management of the company within section 6(1)(b) of the Company Directors Disqualification Act 1986. It may become appropriate for the administrator to perform a more detailed investigation into the reasons for the failure of the company once the administrator has formed the opinion that the company cannot not be rescued.

The administrator is entitled at any time to vary or terminate the consent provided in the Consent Protocol (subject to the Directors' right to apply to the Court to challenge the decision to do so).

If it proves to be possible to stabilise and preserve the company until the COVID-19 crisis has ended, it is anticipated that the Rescue Administration can then be supplemented by either a consensual arrangement, a Company Voluntary Arrangement or a Scheme of Arrangement to reach a compromise with the company's creditors, reduce and/or extend the company's liabilities, and secure the company's long-term viability.