



**EDDIE
SENATORE**

EDDIE SENATORE
Advisory

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17 December 2021

To the creditor as addressed

Dear Creditor

Xanthea Pty Ltd (In Liquidation) ACN 159 994 297 (the “Company”)

As you are aware, I was appointed Liquidator of the Company on 12 May 2020. Please find enclosed:

1. Creditor Update; and
2. Remuneration Approval Report.

Please cast your vote by using the voting forms attached in Appendix 1 and 2 of the Remuneration Approval Report in order to vote on the remuneration resolutions detailed in the Remuneration Approval Report along with a completed Formal Proof of Debt – Form 535 attached in Appendix 3, if one has not been submitted or if your claim has since changed from your last submitted Formal Proof of Debt – Form 535 and return the completed forms to my office no later than Friday, 14 January 2022.

Please contact my office should you require further information.

Yours faithfully

Ezio Senatore
Liquidator

Appointment date: 12 May 2020
Contact name: Ezio (Eddie) Senatore
Contact number: (02) 6100 3435
Email: hello@eddiesenatore.com



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Xanthea Pty Ltd (In Liquidation) **ACN 159 994 297**

(the “Company”)

Creditor Update

17 December 2021

EXIT OPTIMISATION | TURNAROUND | PERFORMANCE IMPROVEMENT | DIGITAL



1.0 Executive Summary

The purpose of this report is to provide an update on the liquidation of the Company to date.

I will also be seeking approval from creditors of my remuneration.

2.0 Receipts and Payments

Refer to the remuneration report attached to this circular which contains a copy of my receipts and payments to date.

3.0 Remuneration

Refer to the Remuneration Approval Report attached to this circular.

My remuneration was previously approved in the amount of \$70,000 from the date of my appointment until the conclusion of the liquidation.

Due to the protracted nature of the liquidation, including the recovery of the Company's interest in work in progress, commencing legal action and the protracted mediation conferences, I will now be seeking further \$61,875.00 in remuneration for the period 23 September 2020 to the conclusion of the liquidation, being a total of \$131,875 from the date of my appointment to the conclusion of the liquidation.

In order to vote on the resolutions please complete the proposal forms attached in Appendix 1 and 2 of the Remuneration Approval Report along with a completed Formal Proof of Debt – Form 535 attached in Appendix 3, if one has not already been submitted or your claim has since changed, no later than 14 January 2022.

4.0 Settlement of Barnes' Legal Costs

As advised in my previous Update Report to Creditors dated 20 September 2021, I entered a deed of release on behalf of the Company on 16 August 2021 subject to the terms of the settlement being approved by the creditors of the Company or the Court to compromise the unpaid professional legal services rendered to Mr Barnes in his personal capacity and as the director of Jornad Pty Ltd ("Jornad") as trustee for the Jornad Trust ("Barnes Legal Costs") for two sets of proceedings in the ACT Supreme Court, being the proceedings SC 67 of 2017 and SC 168 of 2017 ("Jornad I" and "Jornad II" respectively).

As the Jornad I Judgment which was delivered in favour of Mr Barnes and Jornad required Sapme Pty Ltd and Mr Dawn (the "Dawn Parties") to pay monies to Mr Barnes and Jornad in the amount of \$256,812.93 with the question of costs to be heard separately, my solicitors wrote to the solicitors for Mr Barnes and Jornad and the solicitors for the Dawn Parties placing them on notice of the Company's claim over the "fruits of the litigation" noting the Barnes Legal Costs.

The Dawn Parties appealed the Jornad I Judgment in the ACT Supreme Court of Appeal, proceedings ACTCA 43 of 2020 (the "Appeal").



Discussions took place between my solicitors and the solicitors for Mr Barnes, Jornad, and Dawn Parties on a “without prejudice” basis to seek to resolve the Appeal and Barnes Legal Costs and to avoid the Appeal proceeding to a hearing.

The Dawn Parties have offered to pay Mr Barnes and Jornad the sum of \$310,000 to resolve the Appeal, with that sum to be apportioned evenly between Barnes and Jornad on the one hand and the Company on the other hand, payable on or before 31 August 2021.

At the creditors’ meeting held on 6 October 2021, I advise that the creditors of the Company approved to compromise the unpaid Barnes Legal Costs due to the Company in the sum of \$440,653 for \$155,000.

5.0 Settlement Offer – Legal Chambers Pty Ltd trading as Legal on London (“Legal on London”)

In my Statutory Report to Creditors dated 10 August 2020 (“Statutory Report”), I reported the business of the Company was sold to Legal on London in the amount of \$100,000 plus contingent fees on existing legal matters at the time of the sale together with contingent fees on new matters referred to Legal on London by the former director of the Company (“Business Sale Agreement”).

Further to my Statutory Report, I advise the following events took place in relation to the Company’s claim against Legal on London in respect of work in progress and sale of business:

On 24 March 2021, I filed an Originating Process in the Federal Court of Australia in the Australian Capital Territory Registry ACD 18 of 2021 (“Proceedings”). As a result of my investigations into the financial affairs and dealings of the Company with Legal on London, I have identified the following claims:

- an unfair preference claim pursuant to section 588FA of the Corporations Act 2001 (the “Act”) relevant to McLaren Matter or Matter 10076 (“Unfair Preference Claim”); and
- a breach of contract claim with respect to the Business Sale Agreement.

On 12 October 2021, I have subsequently filed an Amended Originating Process in the Proceedings, naming Legal on London as a respondent.

The Amended Originating Process in the Proceedings in summary, included orders in relation to producing the documents and information in the matters of the Company, paying the Company in respect of the Unfair Preference Claim, transferring the trust account balances of the matters in the nominated bank account of the Company, reporting the status of the matters that are subject to the Business Sale Agreement until all matters are finalised and determining the liability for disbursements in respect of the recoverable fees, contingent recovery fees and future fees pursuant to the Business Sale Agreement between the Company and Legal on London.

The Amended Originating Process in the Proceedings also included declarations in respect of the following:



- Lien over the monies of Kristy McLaren (“McLaren”) in relation to Matter 10076 which prevails over Legal on London and JustKapital Financing Pty Ltd ACN 606 427 294 (In Liquidation) trading as JustKapital Finance (“JustKapital”) and McLaren; and
- Lien over the monies of Catherine Alcazar-Stevens in relation to Matter 20228 which prevails over Legal on London and JustKapital.

As Legal on London has disputed the above orders and declarations as well as the unfair preference claim, mediation was proposed to resolve all issues in dispute with respect to the Proceedings in accordance with the terms of the proposed deed of settlement and release subject to the approval of the creditors of the Company or the Court.

The key terms of the deed of settlement and release as identified into five (5) categories are as follows:

Matters where Legal on London have no instructions to act (“Category 1”)

- I will accept the information contained in the matters set out under Category 1 as correct on the basis that Legal on London will notify me if they are reinstructed, receive a request for the file by or on behalf of any of the clients or receive any other information indicating a new solicitor has been retained.

Matter of Kristy McLaren in her capacity as Executrix of the estate of Mr William George McLaren (“Category 2”)

- Legal on London will request that the solicitors for McLaren, seek instructions from McLaren to obtain and provide a copy of the materials that were sent to the Court appointed costs assessor and direct the costs assessor’s file to be provided direct to my solicitors;
- Legal on London agree to allow for the monies held in Legal on London Trust Account referable to Category 2 to be paid into my solicitors’ trust account or into Court;
- Legal on London will provide password to enable access to the McLaren electronic file within seven (7) days of the signed counterparts of the deed of settlement and release being exchanged; and
- Legal on London will provide an undertaking not to distribute or disperse the funds held on trust in respect of the McLaren matter in the event that the solicitors for McLaren cannot obtain instructions in respect of the McLaren Trust Funds within seven (7) days of the signed counterparts of the deed of settlement and release being exchanged.

Matters that are complete and any costs recovery has been paid (“Category 3”)

- I am prepared to accept the information contained in Category 3.

Settled Matters, costs negotiations underway with client (“Category 4”)

- Acknowledgment of the receipt of \$68,141.87 in part settlement in respect of Category 4.
- The sum of \$50,000 is to be paid by Legal on London to the Company in full and final settlement of:
 - (a) Legal on London’s residual obligation on the Category 4 matters;
 - (b) The 10% referral fee in relation to Adam Peters in relation to Matter 20262;



- (c) Any alleged amounts owed under the Business Sale Agreement in relation to Joanne Winnell and David Haller in relation to Matters 20044 and 20093 respectively; and
- (d) The Unfair Preference Claim in the Proceedings. (together, the “Settlement Sum”).
- The Settlement Sum is to be paid by Legal on London to the Company as follows:
 - (a) \$20,000 within 14 days of exchanging the executed counterpart deeds of settlement and release;
 - (b) \$10,000 on or before 28 February 2022;
 - (c) \$10,000 on or before 31 March 2022; and
 - (d) \$10,000 on or before 30 April 2022.

Ongoing Matters (“Category 5”)

- Legal on London will disclose the anticipated legal costs to pursue the claims in Category 5 and will provide me an update on the progress of the claims on a monthly basis; and
- Legal on London will attempt to recover a reasonable amount in relation to the Company’s work in progress and remit to me the amounts required pursuant to the terms of the Business Sale Agreement agreed on the basis it is noted and accepted that the Company’s reasonable work in progress is:
 - (a) \$11,000 in respect of Zlater in Matter 20070; and
 - (b) \$15,000 in respect of Hoare in Matter 20071. (“Category 5 Payments”)

Subject to creditor or Court approval, upon entering this deed of release and settlement with Legal on London, the effects are the following:

- There will be no further dispute between the Company and Legal on London arising from the Business Sale Agreement in respect of Categories 1, 3 and 4;
- I will consent to the Proceedings against Legal on London being dismissed with no orders as to costs;
- Upon payment of the Settlement Sum, the Category 5 Payments, and compliance with the terms of the deed of settlement and release, the Company will release Legal on London from all claims that the Company now have, at any time had, may have, or but for the deed of settlement and release could or might have had against Legal on London that are in any way connected with, related to, or that arise out of the Business Sale Agreement, the Unfair Preference Claim, the Proceedings and dispute; and
- If creditor or Court approval is not obtained by me within 14 days of the last instalment of the Settlement Sum being paid by Legal on London, I am required to notify Legal on London days of becoming aware of the failure to obtain the approval of the settlement and return the Settlement Sum and the Category 5 Payments within seven (7) days of becoming aware of the failure to obtain the approval to compromise the Company’s Claim.

Pursuant to Section 477(2A) of the Act and Corporations Regulations 5.4.02, there is a requirement for a liquidator to seek a resolution from the creditors or approval from the court or a committee of inspection to compromise a debt to the Company if the amount claimed is more than the prescribed amount or in excess of \$100,000.



Pursuant to Section 477 (2B) of the Act, except with the approval of the Court, of the committee of inspection or of a resolution of the creditors, a liquidator of a company must not enter into an agreement on the Company's behalf if:

- (a) without limiting paragraph (b), the term of the agreement may end; or
- (b) obligations of a party to the agreement may, according to the terms of the agreement, be discharged by performance;

I anticipate holding a creditors meeting in January or February when terms have been settled in a deed and will be requesting in that meeting that creditors resolve to accept the proposed settlement to maximise the potential return to creditors as based on the available information, the settlement appears to be commercial and reasonable when compared to the risks and time involved pursuing the Proceedings.

6.0 Meeting of Creditors

As detailed above, I advise at this stage I do not intend to hold a meeting of creditors, however I anticipate calling a meeting sometime early next year in order to seek creditor approval to the terms of settlement to compromise the Company's claim against Legal on London in relation to the Company sale of business, as set out in the proposed deed of settlement and release with Legal on London and to obtain creditor approval to enter the same.

A notice of meeting will be provided to creditors once details of the settlement has been finalised.

7.0 Priority Creditors

Further to my Statutory Report, I advise the Australian Taxation Office ("ATO") has lodged its amended formal proof of debt on 5 October 2021 in relation to outstanding superannuation guarantee charges owed by the Company in the amount of \$13,547.63.

8.0 Unsecured Creditors

Further to my Statutory Report, my inquiries to date indicate an amount of \$1,177,458.13 was owed to 26 creditors, details of which are below:



Unsecured Creditor	Amount \$
JustKapital	470,000.00
Mills Oakley Lawyers Pty Ltd	175,099.52
The Law Society of the Act	158,000.00
Vincent's Accountant	76,767.80
Assess Medical Group	53,546.17
Chris Erskine	50,000.00
Kim Chapman	50,000.00
Actum Capital Pty Ltd	35,618.81
Peter Hayley	35,000.00
DKF Richard Hill	15,000.00
Ivan Bulum - LJ Hooker Property Management Agent	14,500.00
Sharp Photocopiers	12,500.00
Australian Taxation Office	7,113.94
Telstra	5,000.00
PKF Chartered Accountants & Business Advisers	4,600.00
Leap Legal Software	4,500.00
Dr Rj Desiatnik – Barrister	2,600.00
First Choice Bookkeeping	2,268.00
ACTEWAGL	2,242.60
Solvit Network Support	955.00
MLCOA	795.00
Infotrack Australia	662.03
Polo Cpi Pty Ltd	487.88
Iron Mountain Australia Group Pty Ltd	157.38
Rapid Pay Billing	44.00
8th Floor Selborne Chambers	Unknown
Total	\$1,177,458.13

9.0 Likelihood of a Dividend

As a secured creditor of the Company with an All PAAP security interest, the National Australia Bank (“NAB”) will be paid in priority from any realisations from the Company’s non-circulating assets. The amount owed to the NAB is \$250,000.

The NAB will participate in the distribution of circulating assets only after the satisfaction of employee claims and my remuneration as Liquidator.

Based on the foregoing, I estimate a potential dividend to the NAB is likely in the rate of 16.24 cents in the dollar.

Pursuant to section 556 of the Act, the outstanding employee entitlements represent a priority claim. This means employee claims in respect of unpaid wages, superannuation contributions and SGC payable by the company are given a priority before any distribution to unsecured creditors of the Company.

Accordingly, I estimate a potential dividend to the ATO as a priority creditor of the Company is likely in the rate of 100 cents in the dollar.



Xanthea Pty Ltd (In Liquidation) ACN 159 994 297		
Summary of Estimated Return to Creditors		
All line items ex. GST	Liquidation Scenarios	
	Optimistic	Pessimistic
	\$	\$
Cash at Bank as at 17 December 2021*	87,924.58	87,924.58
Add: Expected Further Realisations		
Recovery of Work in Progress	164,545.46	140,909.09
Settlement Offer	30,000.00	30,000.00
Recovery of McLaren Preference**	Commercially Sensitive	Commercially Sensitive
Total Funds Available	194,545.46	170,909.09
Less: Legal Fees (estimated)		
Legal Fees (estimated)	85,000.00	110,000.00
McLaren Matter (estimated)	50,000.00	75,000.00
	135,000.00	185,000.00
Less: Estimated Costs of External Administration		
Remuneration of Liquidator (actual)	46,875.00	46,875.00
Remuneration of Liquidator (estimated)	45,000.00	45,000.00
Disbursements of Liquidator (actual)	451.71	451.71
Disbursements of Liquidator (estimated)	1,000.00	500.00
	93,326.71	92,826.71
Available to Priority Claims of Employees	54,143.33	-
<i>Less Claims of Priority Creditors</i>	13,547.63	13,547.63
Estimated Dividend to Priority Creditors	100%	Nil
Available to Secured Creditors	40,595.70	-
<i>Less Secured Creditor Claims (NAB)</i>	250,000.00	250,000.00
Estimated Dividend to Secured Creditors	16.24%	Nil
<p>*Conditional on creditors approving the settlement to compromise the Company's claim against Legal on London **Estimated receipts and payments are subject to recoveries from the McLaren Matter. The amount is not disclosed due to the reason that mediation may be required and the information might prejudice any settlement discussions</p>		



10.0 Outstanding Matters

The following matters still need to be completed and further inquiries made, prior to the finalisation of the liquidation:

- Obtain creditor or Court approval to enter into a deed of settlement and release with Legal on London;
- Obtain creditor or Court approval to the terms of settlement to compromise debts to the Company as set out in the proposed deed of settlement and release with Legal on London;
- Collect the outstanding funds due from the sale of business;
- Pursue the Company's claim in relation to the McLaren Matter under the Category 2 of the deed of settlement;
- Hold a creditors' meeting to resolve to accept the proposed deed of settlement;
- Finalise investigations into insolvent trading; and
- Payment of dividend to creditors, subject to assets recovered.

I advise I have reported to the Australian Securities and Investments Commission ("ASIC") pursuant to Section 533 of the Act. This report is a confidential one between the liquidator and ASIC.

11.0 Information for Creditors

Creditor information sheets can be accessed on ASIC's website at www.asic.gov.au/insolvencyinfosheets. Creditors requiring further information regarding the liquidation can contact me.

Dated this 17th December 2021.

Yours faithfully

Ezio Senatore
Liquidator



Remuneration Approval Report

Xanthea Pty Ltd (In Liquidation) (the “Company”) ACN 159 994 297

This remuneration approval report provides you with the information you need to be able to make an informed decision regarding the approval of my remuneration for undertaking liquidation of the Company

This report has the following information included:

Part 1: Declaration	2
Part 2: Executive Summary	2
Part 3. Remuneration.....	4
3.1 Remuneration claim resolutions.....	4
3.2 Details of remuneration.....	5
3.3 Total remuneration reconciliation	6
3.4 Likely impact on dividends.....	6
3.5 Remuneration recovered from external sources.....	7
Part 4: Disbursements.....	7
Part 5: Report on Progress of the Administration	7
Part 6: Summary of Receipts and Payments.....	7
Part 7: Queries	8
Schedule A – Resolution 1 Table of major tasks for remuneration	9
Schedule B – Resolution 2 Table of major tasks for remuneration	11
Schedule C – Summary of Receipts and Payments.....	14
Schedule D – Explanation Of Hourly Rates	15
Appendix 1 - Proposal 1 for creditor approval – Remuneration.....	16
Appendix 2 - Proposal 2 for creditor approval – Remuneration.....	17
Appendix 3 - Formal Proof of Debt - Form 535.....	18
Appendix 4 - Information Sheet - Proposals Without Meeting	19



What do you need to do next?

You should read this report and the other documentation that I have sent you.

To minimise the costs in this liquidation, I have elected to seek the approval of creditors for my remuneration without a meeting. Information about the proposals without a meeting process is included at Appendix 4 of this report.

You can cast your vote by using the included voting forms included in this report at Appendix 1 and 2. These forms then need to be returned to my office by email to hello@eddiesenatore.com. I need to receive your forms by **14 January 2022** for your vote to count. If you chose to use post, please allow enough time for your letter to be delivered.

If you have any questions, or need any assistance with understanding the materials I have sent to you, please contact Eddie Senatore on (02) 6100 3435 or via email on hello@eddiesenatore.com.

Part 1: Declaration

I, Eddie Senatore of Eddie Senatore Advisory, have undertaken a proper assessment of this remuneration claim for my appointment as liquidator of the Company in accordance with the law and applicable professional standards. I am satisfied that the remuneration claimed is in respect of necessary work, properly performed, or to be properly performed, in the conduct of the liquidation.

Part 2: Executive Summary

In a circular dated 23 September 2020, creditors approved my remuneration by proposals for the period 12 May 2020 to the conclusion of the winding up.

The following table highlights the past remuneration approved by creditors and the current remuneration approval being sought.



Period 12 May 2020 to the conclusion of the winding up	Period	Actual/ Forecast \$	Report Reference	Amount (ex GST) \$
Past remuneration approved: <i>Total past remuneration approved</i>	For period 12 May 2020 to 22 September 2020	Actual	Remuneration Approval Report dated 23 September 2020	23,156.00
	From 23 September 2020 to the conclusion of the winding up	Forecast	Remuneration Approval Report dated 23 September 2020	46,844.00*
Total Past Remuneration Approved				70,000
Current remuneration approval sought:				
Liquidation Resolution No.1 for the period 23 September 2020 to 10 December 2021	From 23 September 2020 to 10 December 2021	Actual	3.2	63,719.00
Liquidation Resolution No. 2 for the period 11 December 2021 to the conclusion of the winding up	From 11 December 2021 to the conclusion of the winding up	Forecast	3.2	45,000.00**
*This remuneration approval has been superseded by the actual remuneration incurred during the period 23 September 2020 to 10 December 2021.				
**Approval for the future remuneration sought is based on an estimate of the work necessary to the completion of the administration. Should additional work be necessary beyond what is contemplated, further approval may be sought from creditors.				

As highlighted in the table above, creditors have previously approved the remuneration of the Liquidator for the period 12 May 2020 to the conclusion of the winding up to an amount of \$70,000.00 (not Incl. GST).

I am requesting that creditors consider a resolution to approve the remuneration of the Liquidator for an additional amount of \$61,875.00 plus GST for the period 23 September 2020 to the conclusion of the liquidation. The additional remuneration sought from 11 December 2021 to the conclusion of the winding up in the amount of \$45,000.00 represents estimated costs attributed to outstanding work to finalise the liquidation.

Summary of Liquidator's Remuneration & Resolutions

In my initial remuneration report to creditors dated 23 September 2020 creditors were advised that the costs attributed to the liquidation phase would amount to \$70,000.00. As noted in the table above, the amount incurred in Liquidator's remuneration has exceeded the initial estimate amount by \$16,875.00 in actual costs, with a further \$45,000.00 being sought to carry out remaining necessary work until the conclusion of the winding up.



The extra costs of the period of the liquidation have been attributed in dealing with the following issues:

- Additional time (approximately 101.75 hours) spent by members of staff and sub-contractors in dealing with “creditors” including preparing additional reports to creditors, preparing proposal notices and voting forms and preparation of meeting notices, advertisement of meeting and draft minutes of meeting, preparation and lodgement of minutes of meetings with ASIC. The cost of this additional time is approximately \$20,350.00.
- Additional time (approximately 12.31 hours) spent by members of staff and sub-contractors in dealing with “investigations” matters including review of specific transactions and liaising with the director regarding certain transactions, investigating breaches by the director, investigating voidable transactions and insolvent trading action against the director, preparation of investigation file, lodgement of investigation with the ASIC, obtaining clearance from ASIC, liaising with solicitors in relation to the commerciality of the sale of business, retrieving the Company’s pre-appointment bank statements, attending negotiations and settlement matters, and preparing statutory reports to ASIC. The cost of this additional time is approximately \$5,541.00.
- Additional time (approximately 27.07 hours) spent by members of staff and sub-contractors in dealing with “administration” matters including incoming and outgoing correspondence between the case manager and various stakeholders, bank administration, review and planning discussions, general reporting, lodgements of documentation with the Australian Taxation Office (“ATO”) and ASIC, dealing with the ATO directly in respect of BAS issues and dealing with insurance matters. The cost of this additional time is approximately \$5,414.00.

The additional remuneration being sought to administer the liquidation to finalisation is attributed to the outstanding work needed to be undertaken, which is as follows:

- Obtain creditor or Court approval to enter into a deed of settlement and release with Legal on London;
- Obtain creditor or Court approval to the terms of settlement to compromise debts to the Company as set out in the proposed deed of settlement and release with Legal on London;
- Collect the outstanding funds due from the sale of business;
- Pursue the Company’s claim in relation to the McLaren Matter under the Category 2 of the deed of settlement;
- Hold a creditors’ meeting to resolve to accept the proposed deed of settlement;
- Finalise investigations in respect to insolvent trading;
- Payment of dividend to creditors, subject to assets recovered;
- Discharge statutory obligations with ASIC, the ATO and other regulatory authorities; and
- Attend to all tasks associated with finalising the administration.

I draw the attention of creditors that the approval for the actual or forecast remuneration sought is based on work already undertaken and that which has been deemed necessary to complete the administration. Should additional work be necessary beyond what is contemplated, further approval may be sought from creditors.

Part 3. Remuneration

3.1 Remuneration claim resolutions

I will be seeking approval of the following resolutions to approve my remuneration. Details to support these resolutions are included in section 3.2 and in the attached Schedules.



Resolution 1 from 23 September 2020 to 10 December 2021

"That the remuneration of the liquidator, his staff and sub-contractors, as set out in the Remuneration Approval Report dated 17 December 2021, be fixed and approved for the period from 23 September 2020 to 10 December 2021 to a limit of \$63,719.00 plus GST, and that the Liquidator be authorised to draw remuneration as required."

Resolution 2 from 11 December 2021 to the conclusion of the winding up.

"That the remuneration of the Liquidator, his staff and sub-contractors, as set out in the Remuneration Approval Report dated 17 December 2021, for the period from 11 December 2021 to the conclusion of the winding up, be capped up to a maximum amount of \$45,000.00, plus any applicable GST, but subject to upward revision by resolution of creditors, and that the Liquidator be authorised to make periodic payments on account of such accruing remuneration as incurred."

3.2 Details of remuneration

The basis of calculating the remuneration claim is summarised below and the details of the major tasks performed and the costs associated with each of those major tasks are contained in Schedules A and B.

Resolution 1 from 23 September 2020 to 10 December 2021

The below table sets out time charged to each major task area by staff members and sub-contractors working on the liquidation for the period 23 September 2020 to 10 December 2021 which is the basis of the Resolution 1 claim. More detailed descriptions of the tasks performed within each task area, matching the amounts below, are contained in Schedule A.

Fee Summary for the Period 23 September 2020 to 10 December 2021

Employee	Position	\$/Hour (Exc GST)	Total Actual Hours	TOTAL \$	T A S K A R E A						
					Assets \$	Creditors \$	Employees \$	Trade-On \$	Investigations \$	Dividend \$	Administration \$
Ezio Senatore	Appointee	450.00	-	-	-	-	-	-	-	-	-
Anne Manangan	Manager	450.00	45.30	20,385.00	-	-	-	-	20,385.00	-	-
Eddie Senatore	Senior Accountant	200.00	24.25	4,850.00	3,650.00	1,150.00	-	-	-	-	50.00
Anne Manangan	Senior Accountant	200.00	138.40	27,680.00	920.00	25,140.00	-	-	-	-	1,620.00
Angelica Caraca	Intermediate	200.00	10.40	2,080.00	-	2,060.00	-	-	-	-	20.00
Gina Neou	Clerk	200.00	39.00	7,800.00	-	-	-	-	-	-	7,800.00
Clare Johnson	Secretary	200.00	4.62	924.00	-	-	-	-	-	-	924.00
TOTAL			261.97	63,719.00	4,570.00	28,350.00	-	-	20,385.00	-	10,414.00
				add GST							
				TOTAL INC GST							70,090.90

Number of hours (Actual)	22.85	141.75	-	-	45.30	-	52.07
Average hourly rate (Actual - \$)	\$ 200.00	\$ 200.00	\$ -	\$ -	\$ 450.00	\$ -	\$ 200.00
Total average hourly rate (Actual - \$)	\$ 243.23						

Resolution 2 from 11 December 2021 to the conclusion of the winding up

The below table sets out the expected costs for the major tasks likely to be performed by the liquidator, staff and sub-contractors for the period 11 December 2021 to the conclusion of the winding up which is the basis of the Resolution 2 claim. More detailed descriptions of the tasks likely to be performed within each task area, matching the amounts below, are contained in Schedule B.



Remuneration Resolution 2

Forecast Fee Summary from 11 December 2021 to the conclusion of the winding up

Task Area	Estimated Hours	Estimated Cost (\$)
Assets	40.00	8,000.00
Creditors	80.00	16,000.00
Employees	7.78	3,500.00
Investigations	8.89	4,000.00
Dividends	11.11	5,000.00
Administration	42.50	8,500.00
TOTAL	190.28	45,000.00
Average rate (\$)		236.50

3.3 Total remuneration reconciliation

At this point in time, I estimate that the total remuneration for this liquidation will be \$131,875.00 (plus GST). This includes the current remuneration approvals being sought. This is different with the estimate provided in the previous Remuneration Notice dated 23 September 2020, which estimated remuneration of \$70,000.00 (plus GST) due to the extra tasks associated with the realisation of the outstanding funds due from the work in progress included as part of the sale of business, negotiations with the solicitor and entering into a Deed of Settlement and Release on behalf of the Company in relation to the Barnes Matter as discussed in the Update Report to Creditors dated 20 September 2021 and the terms of the settlement being approved by the creditors of the Company on the meeting held 6 October 2021, attending to negotiations and settlement in relation to the Originating Process filed on 24 March 2021 and Amended Originating Process filed on 12 October 2021 in respect of claims against Legal on London and the orders and declarations of the Court with Legal on London as a respondent, preparation of the additional reports to creditors, preparation of proposal notices and voting forms, preparation of meeting notices, proxies and advertisements, investigations in relation to director breaches, insolvent trading, and commerciality of the sale of business and administrative tasks.

In preparing this remuneration approval report, I have made my best estimate at what I believe the liquidation will cost to complete and I do not anticipate that I will have to ask creditors to approve any further remuneration. However, should the liquidation not proceed as expected, I will advise creditors and I may seek approval of further remuneration and provide details on why the remuneration has changed.

3.4 Likely impact on dividends

The Corporations Act sets the order for payment of claims against a company and it provides for remuneration of the liquidator to be paid in priority to other claims. This ensures that when there are sufficient funds, the liquidator receives payment for the work done to recover assets, investigate the company's affairs, report to creditors and ASIC and distribute any available funds.



Based on:

- realisations to date,
- estimated future realisations,
- my estimated remuneration to complete the liquidation and
- the estimated total of creditor claims based on the company's records and claims lodged now,

I estimate a dividend at the rate of 100 cents in the dollar to the priority creditor of the Company in the liquidation is likely as well as a dividend at the rate of 16.24 cents in the dollar to the National Bank of Australia as a secured creditor of the Company with an All PAAP security interest.

3.5 Remuneration recovered from external sources

I have received no remuneration from external sources to date.

Part 4: Disbursements

Disbursements are divided into three types:

- **Externally provided professional services** - these are recovered at cost. An example of an externally provided professional service disbursement is legal fees.
- **Externally provided non-professional costs** - these are recovered at cost. Examples of externally provided non-professional costs are travel, accommodation and search fees.
- **Internal disbursements** such as photocopying, printing and postage. These disbursements, if charged to the Administration, would generally be charged at cost; though some expenses such as telephone calls, photocopying and printing may be charged at a rate which recoups both variable and fixed costs.

I have undertaken a proper assessment of disbursements claimed for the Company in accordance with the law and applicable professional standards. I am satisfied that the external disbursements claimed are at cost and are necessary and proper and do not require creditor approval.

Part 5: Report on Progress of the Administration

Refer to my Update Report to Creditors attached to this circular.

Part 6: Summary of Receipts and Payments

A summary of the receipts and payments for the liquidation as at 17 December 2021 is included at Schedule C of this report.



Part 7: Queries

If you have any queries in relation to the information in this report, please contact me on (02) 6100 3435 or hello@eddiesenatore.com.

You can also access information which may assist you on the following websites:

- ARITA at www.arita.com.au/creditors

ASIC at www.asic.gov.au (search for “insolvency information sheets”).



Schedule A – Resolution 1 Table of major tasks for remuneration

The below table provides a description of the work undertaken in each major task area for the period 23 September 2020 to 10 December 2021.

Task Area	General Description	Includes
Assets 22.85 hours \$4,570.00	Debtors	Liaising with debt collectors and solicitors Consider various realisation options including litigation
Creditors 141.75 hours \$28,350.00	Creditor Enquiries, Requests & Directions	Receive and respond to creditor enquiries Review and prepare correspondence to creditors and their representatives Considering reasonableness of creditor requests Compiling information requested by creditors
	Secured creditor	Preparing reports to secured creditor Responding to queries of secured creditor/PPSR queries
	Reports to creditors	Preparing Update Reports to Creditors
	Dealing with Proofs of debt	Receipting and filing POD when not related to a dividend
	Proposals to Creditors	Preparing proposal notices and voting forms Forward notice of proposal to all known creditors Reviewing votes and determining outcome of proposal Preparation and lodgement of proposal outcome with ASIC
Meetings of Creditors	Preparation of meeting notices, proxies and advertisements Forward notice of meeting to all known creditors 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. Preparation and lodgement of minutes of meetings with ASIC Responding to stakeholder queries and questions immediately following meeting	
	Conducting investigation	Liaising with the director regarding certain transactions Conducting and summarising statutory searches Collection of company books and records, particularly debtors Review of books and records Preparation of deficiency statement Preparation & conduct investigation file, disclosure assets, cause failure & other potential recoveries Review of specific transactions and liaising with director regarding certain transactions Lodgement of investigation report with the ASIC Review potential voidable transactions
Investigation 45.30 hours \$20,385.00		



Task Area	General Description	Includes
	Litigation/Recoveries	Initial meeting to discuss status of litigation Preparing brief to solicitors Liaising with solicitors regarding recovery action Attending negotiations Attending settlement matters
	ASIC Reporting	Preparing statutory investigation reports
Administration 52.07 hours \$10,414.00	Correspondence	General correspondence
	Document maintenance/file review/checklist	Filing of documents File reviews Updating checklists
	Bank account administration	Requesting bank statements Bank account reconciliations
	ASIC forms and lodgements	Preparing and lodging ASIC forms Correspondence with ASIC regarding statutory forms
	ATO and other statutory reporting	Notification of appointment Preparing BAS
	Planning / Review	Discussions regarding status of administration
Total \$63,719.00		



Schedule B – Resolution 2 Table of major tasks for remuneration

The below table provides a description of the work undertaken in each major task area for the period 11 December 2021 to the conclusion of the winding up.

Task Area	General Description	Includes
Assets \$8,000.00	Debtors	<ul style="list-style-type: none"> Liaising with debt collectors and solicitors Consider various realisation options including litigation
Creditors \$16,000.00	Creditor enquiries, requests and directions	<ul style="list-style-type: none"> Receive and respond to creditor enquiries Review and prepare correspondence to creditors and their representatives Considering reasonableness of creditor requests Documenting reasons for complying or not complying with requests or directions Compiling information requested by creditors Maintaining creditor request log Review and/or prepare correspondence to creditors by fax/post/email
	Secured creditor	<ul style="list-style-type: none"> Preparing reports to secured creditor Responding to queries of secured creditor/PPSR queries
	Reports to creditors	<ul style="list-style-type: none"> General reports and updates to creditors
	Dealing with Proofs of debt	<ul style="list-style-type: none"> Receipting and filing POD when not related to a dividend
	Proposals to Creditors	<ul style="list-style-type: none"> Preparing proposal notices and voting forms Forward notice of proposal to all known creditors Reviewing votes and determining outcome of proposal Preparation and lodgement of proposal outcome with ASIC
Meetings of Creditors	<ul style="list-style-type: none"> Preparation of meeting notices, proxies and advertisements Forward notice of meeting to all known creditors 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 Preparation and lodgement of minutes of meetings with ASIC Responding to stakeholder queries and questions immediately following meeting 	



Employees \$3,500.00	Employee dividend	Correspondence with ATO regarding SGC proof of debt Calculating dividend rate Preparing dividend file Advertising dividend notice Preparing distribution Receipting POD Adjudicating POD Ensuring PAYG is remitted to ATO
Investigations \$4,000.00	Conducting Investigations	Review potential voidable transactions Review commercialisation of the sale of business Finalisation of insolvent trading investigations
	Litigation/Recoveries	Preparing brief to solicitors Liaising with solicitors regarding recovery actions Attending negotiations Attending settlement matters
	ASIC Reporting	Liaising with ASIC
Dividends \$5,000.00	Processing proofs of debt	Preparation of correspondence to potential creditors inviting lodgement of POD Receipt of POD Maintain POD register Adjudicating POD Request further information from claimants regarding POD Preparation of correspondence to claimant advising outcome of adjudication
	Dividend procedures	Preparation of correspondence to creditors advising of intention to declare dividend Advertisement of intention to declare dividend Obtain clearance from ATO to allow distribution of company's assets Preparation of dividend calculation Preparation of correspondence to creditors announcing declaration of dividend Advertise announcement of dividend Preparation of distribution Preparation of dividend file Preparation of payment vouchers to pay dividend Preparation of correspondence to creditors enclosing payment of dividend
Administration \$8,500.00	Correspondence	General correspondence
	Document maintenance/file review/checklist	Filing of documents File reviews Updating checklists
	Bank account administration	Preparing correspondence closing accounts
	ASIC forms and lodgements	Preparing and lodging ASIC forms Correspondence with ASIC regarding statutory forms
	ATO and other statutory reporting	Preparing BAS



	Planning / Review	Discussions regarding status of administration
	ATO and other statutory reporting	Preparing BAS
	Finalisation	Notifying ATO of finalisation Cancelling ABN / GST / PAYG registration Completing checklists Finalising WIP
	Planning / Review	Discussions regarding status of administration
	Books and records / storage	Dealing with records in storage Sending job files to storage
Total \$45,000.00		



Schedule C – Summary of Receipts and Payments

Xanthea Pty Ltd (In Liquidation)
ACN 159 994 297
(the “Company”)

Summary of Liquidator's Receipts and Payments 12 May 2020 to 17 December 2021

Receipts	Total (AUD) \$
Cash on Hand	7,000.00
Settlement of Preferences	20,000.00
Work in Progress Recovered	37,235.09
CFG Recoveries	61,947.16
GST Payable	9,918.21
Total Receipts	136,100.46

Payments	Total (AUD) \$
Postage	84.55
Liquidator's Remuneration	40,000.00
Search Fees	367.16
GST Receivable	4,045.17
GST Clearing Account	3,679.00
Total Payments	48,175.88

Cash At Bank As At 17 December 2021	87,924.58
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Ezio Senatore
Liquidator



Schedule D – Explanation Of Hourly Rates

The rates for my remuneration calculation are set out in the following table together with a general guide showing the qualifications and experience of staff that will be engaged in the administrations and the role they take in the administrations. The hourly rates charged encompass the total cost of providing professional services and should not be compared to an hourly wage.

Title	Description	Hourly Rate (\$) (ex GST)
Appointee	Registered liquidator, Chartered Accountant, degree qualified with more than twelve years of experience. Assignment lead.	\$550
Manager	Chartered Accountant and degree qualified with more than five years of experience. Self-sufficiently conducts insolvency appointments and takes a supervisory role on matters.	\$450
Intermediate	Generally degree qualified and undertaking or about to undertake professional year qualification or comparable relevant qualification with less than one year of experience.	\$300
Secretary	Appropriately experienced and undertakes senior activities such as oversight of the processing of payment of receipts and banking administration.	\$250
Clerk	Appropriately experienced and undertakes support activities such as meeting coordination and preparation of materials where it is efficient and appropriate to do so.	\$150

Notes:

1. *The abovementioned hourly rates are exclusive of GST.*
2. *The above staff descriptions are intended a general guide only to the experience and qualifications of staff engaged in the external administration.*
3. *Time is recorded and charged to the administration in six-minute increments.*

17 December 2021

NOTICE OF PROPOSAL TO CREDITORS WITHOUT MEETING
Xanthea Pty Ltd (In Liquidation)
ACN 159 994 297 (the "Company")

Proposal 1 for creditor approval – Remuneration

"That the remuneration of the liquidator, his staff and sub-contractors, as set out in the Remuneration Approval Report dated 17 December 2021, be fixed and approved for the period from 23 September 2020 to 10 December 2021 to a limit of \$63,719.00 plus GST, and that the Liquidator be authorised to draw remuneration as required."

Reasons for the proposal and the likely impact it will have on creditors if it is passed

The proposal is a request to creditors for approval of my prospective remuneration. If my remuneration is approved, I will draw these funds from current and future funds available. This will reduce the dividend payable (if any) to creditors of the Company. Failure to approve remuneration via circular resolution means that I shall be required to call a meeting of creditors to seek approval of my remuneration. This action will result in additional fees and costs for which I shall seek approval.

Vote on proposal

Creditors have the option of approving, not approving or objecting to the proposal being resolved without a meeting of creditors. Please select the appropriate Yes, No or Object box referred to below:

- Yes I approve the proposal
- No I do not approve the proposal
- Object I object to the proposal being resolved without a meeting of creditors

Your claim against the Company must be admitted for the purposes of voting by the liquidator for your vote to count. Please select the option that applies:

- I have previously submitted a proof of debt form and supporting documents
- I have enclosed a proof of debt form and supporting documents with this proposal form

Creditor details

Name of creditor: _____ ACN / ABN (if applicable): _____

- I am not a related creditor of the Company.
- I am a related creditor of the Company, relationship:

Address _____

Name _____

Signature _____

Reasons for the proposal and the likely impact it will have on creditors if it is passed

- *A Liquidator is entitled to be fairly remunerated for undertaking statutory and other duties, including reporting obligations in acting as a liquidator.*
- *I am unable to pay my remuneration without the approval of the committee of inspection (if one has been appointed), creditors, or the Court.*
- *Approval by creditors is efficient and timely, and is less costly than an application to the Court.*
- *Approval of my remuneration will allow me to maximise returns to the secured creditor and finalise the liquidation.*

Please complete this document and return with any supporting documents by no later than **Friday, 14 January 2022** for your vote to be counted, by email to Hello@eddiesenatore.com or PO Box 3481 Manuka ACT 2603 (please ensure sufficient time for your vote to count). If you have any questions, please call me.

17 December 2021

NOTICE OF PROPOSAL TO CREDITORS WITHOUT MEETING
Xanthea Pty Ltd (In Liquidation)
ACN 159 994 297 (the "Company")

Proposal 2 for creditor approval – Remuneration

"That the remuneration of the Liquidator, his staff and sub-contractors, as set out in the Remuneration Approval Report dated 17 December 2021, for the period from 11 December 2021 to the conclusion of the winding up, be capped up to a maximum amount of \$45,000.00, plus any applicable GST, but subject to upward revision by resolution of creditors, and that the Liquidator be authorised to make periodic payments on account of such accruing remuneration as incurred."

Reasons for the proposal and the likely impact it will have on creditors if it is passed

The proposal is a request to creditors for approval of my prospective remuneration. If my remuneration is approved, I will draw these funds from current and future funds available. This will reduce the dividend payable (if any) to creditors of the Company. Failure to approve remuneration via circular resolution means that I shall be required to call a meeting of creditors to seek approval of my remuneration. This action will result in additional fees and costs for which I shall seek approval.

Vote on proposal

Creditors have the option of approving, not approving or objecting to the proposal being resolved without a meeting of creditors. Please select the appropriate Yes, No or Object box referred to below:

- Yes I approve the proposal
- No I do not approve the proposal
- Object I object to the proposal being resolved without a meeting of creditors

Your claim against the Company must be admitted for the purposes of voting by the liquidator for your vote to count. Please select the option that applies:

- I have previously submitted a proof of debt form and supporting documents
- I have enclosed a proof of debt form and supporting documents with this proposal form

Creditor details

Name of creditor: _____ ACN / ABN (if applicable): _____

- I am not a related creditor of the Company.
- I am a related creditor of the Company, relationship:

Address _____

Name _____

Signature _____

Reasons for the proposal and the likely impact it will have on creditors if it is passed

- *A Liquidator is entitled to be fairly remunerated for undertaking statutory and other duties, including reporting obligations in acting as a liquidator.*
- *I am unable to pay my remuneration without the approval of the committee of inspection (if one has been appointed), creditors, or the Court.*
- *Approval by creditors is efficient and timely, and is less costly than an application to the Court.*
- *Approval of my remuneration will allow me to maximise returns to the secured creditor and finalise the liquidation.*

Please complete this document and return with any supporting documents by no later than **Friday, 14 January 2022** for your vote to be counted, by email to Hello@eddiesenatore.com or PO Box 3481 Manuka ACT 2603 (please ensure sufficient time for your vote to count). If you have any questions, please call me.

FORM 535

Subregulation 5.6.49(2)
Corporations Act 2001

FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)

To the liquidator of Xanthea Pty Ltd (In Liquidation) ACN 159 994 297 (the "Company")

1. This is to state that the company was on 12 May 2020, and still is, justly and truly indebted to:

_____ full name, ABN
and address of the creditor and, if applicable, the creditor's partners. If prepared by an employee or agent of the creditor, also insert a description of the occupation of the creditor) for _____ dollars and _____ cents

Particulars of the debt are:

Date	Consideration <small>(state how the debt arose)</small>	Amount	Remarks <small>(include details of voucher substantiating payment)</small>
\$			

2. To my knowledge or belief the creditor has not, nor has any person by the creditor's order, had or received any satisfaction or security for the sum or any part of it except for the following:

(insert particulars of all securities held. If the securities are on the property of the company, assess the value of those securities. If any bills or other negotiable securities are held, show them in a schedule in the following form).

Date	Drawer	Acceptor	Amount	Due Date
\$				

3. Signed by (select option):

- I am the creditor personally.
- I am employed by the creditor and authorised in writing by the creditor to make this statement. I know that the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, remains unpaid and unsatisfied.
- I am the creditor's agent authorised in writing to make this statement in writing. I know the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, remains unpaid and unsatisfied.

Signature: _____ Dated: _____

Name: _____ Occupation: _____

Address: _____

RECEIVE REPORTS BY EMAIL	Yes	No
Do you wish to receive all future reports and correspondence from our office via email?	<input type="checkbox"/>	<input type="checkbox"/>
Email:.....		

Appendix 4 - Information Sheet - Proposals Without Meeting



Information sheet: Proposals without meetings

You may be a creditor in a liquidation, voluntary administration or deed of company arrangement (collectively referred to as an external administration).

You have been asked by the liquidator, voluntary administrator or deed administrator (collectively referred to as an external administrator) to consider passing a proposal without a meeting.

This information sheet is to assist you with understanding what a proposal without a meeting is and what your rights as a creditor are.

What is a proposal without a meeting?

Meetings of creditors were previously the only way that external administrators could obtain the views of the body of creditors. However, meetings can be very expensive to hold.

A proposal without a meeting is a cost effective way for the external administrator to obtain the consent of creditors to a particular course of action.

What types of proposals can be put to creditors?

The external administrator is able to put a range of proposals to creditors by giving notice in writing to the creditors. There is a restriction under the law that each notice can only contain a single proposal. However, the external administrator can send more than one notice at any single time.

What information must the notice contain?

The notice must:

- include a statement of the reasons for the proposal and the likely impact it will have on creditors if it is passed
- invite the creditor to either:
 - vote yes or no to the proposal, or
 - object to the proposal being resolved without a meeting, and
- specify a period of at least 15 business days for replies to be received by the external administrator.

If you wish to vote or object, you will also need to lodge a Proof of Debt (POD) to substantiate your claim in the external administration. The external administrator will provide you with a POD to complete. You should ensure that you also provide documentation to support your claim.

If you have already lodged a POD in this external administration, you do not need to lodge another one.

The external administrator must also provide you with enough information for you to be able to make an informed decision on how to cast your vote on the proposal. With some types of proposals, the law or ARITA's Code of Professional Practice sets requirements for the information that you must be provided.

Specific queries should be directed to the external administrator's office.

AUSTRALIAN RESTRUCTURING INSOLVENCY & TURNAROUND ASSOCIATION

For example, if the external administrator is asking you to approve remuneration, you will be provided with a Remuneration Approval Report, which will provide you with detailed information about how the external administrator's remuneration for undertaking the external administration has been calculated.

What are your options if you are asked to vote on a proposal without a meeting?

You can choose to vote yes, no or object to the proposal being resolved without a meeting. If the administration is a simplified creditors' voluntary liquidation (SCVL), you cannot object to the proposal being resolved without a meeting as meetings cannot be held in a SCVL.

How is a resolution passed?

A resolution will be passed if more than 50% in number and 50% in value (of those creditors who did vote) voted in favour of the proposal, but only so long as not more than 25% in value objected to the proposal being resolved without a meeting.

What happens if the proposal doesn't pass?

If the proposal doesn't pass and an objection is not received, the external administrator can choose to amend the proposal and ask creditors to consider it again or the external administrator can choose to hold a meeting of creditors to consider the proposal.

The external administrator may also be able to go to Court to seek approval.

What happens if I object to the proposal being resolved without a meeting?

If more than 25% in value of creditors responding to the proposal object to the proposal being resolved without a meeting, the proposal will not pass even if the required majority vote yes. The external administrator will also be unable to put the proposal to creditors again without a meeting. You should be aware that if you choose to object, there will be additional costs associated with convening a meeting of creditors or the external administrator seeking the approval of the Court. This cost will normally be paid from the available assets in the external administration.

This is an important power and you should ensure that it is used appropriately.

Where can I get more information?

The Australian Restructuring Insolvency and Turnaround Association (ARITA) provides information to assist creditors with understanding external administrations and insolvency.

This information is available from ARITA's website at arita.com.au/creditors.

ASIC also provides information sheets on a range of insolvency topics. These information sheets can be accessed on ASIC's website at asic.gov.au (search for "insolvency information sheets").

**For more information, go to www.arita.com.au/creditors.
Specific queries should be directed to the external administrator's office.**