

**ONTARIO
SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY**

THE HONOURABLE)
)
JUSTICE *S. J. KERSTMAN*) WEDNESDAY, THE 13TH DAY
)
) OF JULY, 2022

**IN THE MATTER OF THE PROPOSAL OF
CLEARFORD WATER SYSTEMS INC.,
OF THE CITY OF OTTAWA, IN THE PROVINCE OF ONTARIO**

ORDER

THIS MOTION, made by KSV Restructuring Inc. (“KSV”), in its capacity as the proposal trustee (in such capacity, the “**Proposal Trustee**”) of Clearford Water Systems Inc. (the “**Debtor**”), for an order, *inter alia*, (i) approving the amended proposal of the Debtor dated May 19, 2022 (the “**Proposal**”) and filed pursuant to Part III of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”); (ii) amending the Debtor’s constating documents as set out in the Articles of Reorganization (as defined in the Proposal); and (iii) approving the First Report of the Proposal Trustee dated June 29, 2022 (the “**First Report**”) and the actions of the Proposal Trustee described therein, was heard this day via judicial videoconference.

ON READING the First Report and the appendices thereto and on hearing the submissions of counsel for the Proposal Trustee, counsel for the Debtor and such other counsel as were present, no one appearing for any other person on the service list, although duly served as appears from the affidavit of service, filed:

1. **THIS COURT ORDERS** that the time for service and filing of the notice of motion and the motion record be and is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that all capitalized terms not otherwise defined in this Order shall have the meanings ascribed to them in the Proposal.

3. **THIS COURT ORDERS** that the Proposal, as accepted by the requisite majority of the Debtor's creditors and attached hereto as **Schedule "A"**, be and is hereby approved and is effective in accordance with its terms.

4. **THIS COURT ORDERS** that, pursuant to section 59(4) of the BIA, the Debtor's constating instrument is to be amended in accordance with the Articles of Reorganization attached as Schedule "A" to the Proposal, and that to give effect to such amendment, the Debtor be and is hereby authorized and directed to file the Articles of Reorganization, at such time and in such manner as contemplated by the Proposal and as required by applicable corporate laws.

5. **THIS COURT ORDERS** that, as at 12:01 a.m. on the Implementation Date, the treatment of all Claims under the Proposal shall be final and binding on the Debtor and all Creditors (along with their respective heirs, executors, administrators, legal personal representatives, successors and assigns) and the Proposal shall constitute: (i) a full, final and absolute settlement of all rights and holders of the Claims affected by the Proposal; and (ii) an absolute release and discharge of all indebtedness, liabilities and obligations of the Debtor of or in respect of such Claims.

6. **THIS COURT ORDERS** that the Debtor and the Proposal Trustee be and are hereby authorized, directed and empowered to take all steps and actions necessary or appropriate (as determined by the Debtor or the Proposal Trustee, as the case may be) to implement the Proposal and the transactions contemplated thereby, in accordance with and subject to the terms of the Proposal, and that neither the Debtor nor the Proposal Trustee shall incur any liability as a result of acting in accordance with the terms of the Proposal and this Order.

7. **THIS COURT ORDERS** that the Proposal Trustee and any other Person required to make distributions, deliveries or allocations or take any steps or actions related thereto pursuant to the Proposal are hereby authorized and directed to complete such distributions, deliveries and allocations, as applicable, and to take any such related steps or actions, as the case may be, in accordance with the terms of the Proposal, and such distributions, deliveries and allocations, and steps and actions related thereto, be and are hereby approved.

8. **THIS COURT ORDERS** that the First Report be and is hereby approved and the actions of the Proposal Trustee described therein be and are hereby approved.

9. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

10. **THIS COURT HEREBY REQUESTS** the aid and recognition of any Court, tribunal, regulatory or administrative bodies, having jurisdiction in Canada or in any foreign jurisdiction, to give effect to this Order and to assist the Company, the Proposal Trustee and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Company and to the Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Proposal Trustee in any foreign proceeding, or to assist the Debtor and the Proposal Trustee and their respective agents in carrying out the terms of this Order.



KERSHMAN J

SCHEDULE "A"

PROPOSAL

[Attached]

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
(IN BANKRUPTCY AND INSOLVENCY)**

**IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, c. B-3, AS AMENDED**

**AND IN THE MATTER OF THE PROPOSAL OF
CLEARFORD WATER SYSTEMS INC.,
OF THE CITY OF OTTAWA, IN THE PROVINCE OF ONTARIO**

AMENDED PROPOSAL

CLEARFORD WATER SYSTEMS INC. hereby submits the following Proposal to all of its Affected Creditors (as defined herein) pursuant to Part III of the BIA.

**ARTICLE 1
DEFINITIONS**

1.1 Definitions

In this Proposal:

- (a) “Administrative Fees and Expenses” means the proper fees, expenses and legal fees and disbursements of the Trustee on and incidental to the negotiation, preparation, presentation, consideration, Court approval of, and implementation of the Proposal and all proceedings and matters relating to or arising out of the Proposal including, without limitation, any meeting or meetings of creditors to consider the Proposal;
- (b) “Administrative Fee Reserve” means an amount determined by the Trustee to be reserved by the Trustee from the Priority Creditors Cash Amount and/or the Unsecured Creditors Cash Amount on account of Administrative Fees and Expenses required to complete the administration of the Proposal by the Trustee;
- (c) “Affected Claims” means all Claims which are not Unaffected Claims;
- (d) “Affected Creditor” means a Creditor having an Affected Claim;
- (e) “Affected Intercompany Claims” means the CKC Net Advances, the CWUO Net Advances and CFC Net Advances.
- (f) “Approval Order” means an Order of the Court approving the Proposal;

- (g) “Articles of Reorganization” means the articles of reorganization of the Debtor to become effective on the Implementation Date attached hereto as **Schedule “A”**;
- (h) “BIA” means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended and in force as at the Filing Date;
- (i) “Business Day” means each day other than a Saturday or Sunday or a statutory or civic holiday on which banks are open for business in Ottawa, Ontario, Canada;
- (j) “Canada Pension Plan” means the *Canada Pension Plan*, R.S.C. 1985, c. C-8, as amended;
- (k) “CFC” means Clearford Finance Corporation;
- (l) “CFC Net Advances” means the advances made by CFC to the Debtor as at the Filing Date, less any Intercompany Obligations owing by CFC to the Debtor as at the Filing Date;
- (m) “CKC” means Clearford Koester Canada Inc. (formerly Koester Canada Inc.);
- (n) “CKC Net Advances” means the advances made by CKC to the Debtor as at the Filing Date, less any Intercompany Obligations owing by CKC to the Debtor as at the Filing Date;
- (o) “Claim” means:
 - (i) any right of any Person against the Debtor in connection with any indebtedness, liability or obligation of any kind of the Debtor which indebtedness, liability or obligation is in existence on, or which is based in whole or in part on any act, omission or fact that occurred or existed prior to the Filing Date, whether or not reduced to judgement, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured, under-secured, unsecured, present, future, direct or indirect, known or unknown, by guarantee, by surety or otherwise, at law or in equity, and whether or not such a right is executory in nature, including, without limitation, the right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action (each, a “Pre-Filing Claim”);
 - (ii) a claim against Directors of the Debtor that is based in whole or in part on facts, events or matters which existed or occurred on or before the Filing Date and that relates to

the obligations of the Debtor for which the Directors are by law liable in their capacity as Directors for the payment of such obligations. Director Claims do not include claims that relate to: (a) contractual rights of one or more Creditors arising from contracts with one or more Directors; or (b) wrongful or oppressive conduct by Directors (each, a “Director Claim”); and

(iii) any right or claim of any Person against the Debtor, whether or not made, in connection with any indebtedness, liability or obligation of any kind whatsoever owed by the Debtor to such Person arising out of the restructuring, disclaimer, repudiation, resiliation, termination or breach of any lease, contract or other arrangement, agreement or obligation (whether oral or written) by the Debtor on or after the Filing Date, (each, a “Restructuring Claim”).

- (p) “Contingent Value Note” means an unsecured contingent value note in the maximum principal amount of CAD\$45,724,582.00 to be issued by the Debtor upon Implementation in favour of the Note Participants, substantially in the form attached as **Schedule “C”** hereto
- (q) “Court” means the Ontario Superior Court of Justice (Commercial List) (in Bankruptcy and Insolvency);
- (r) “Creditor” means any Person having a Claim and may, if the context requires, mean a trustee, receiver, receiver-manager or other Person acting on behalf of or in the name of such Person;
- (s) “Creditors’ Meeting” means any meeting of the Affected Creditors called for the purpose of considering and voting upon the Proposal;
- (t) “Creditors’ Meeting Date” means 10:00 a.m. on the date and time as may be called by the Trustee in consultation with the Official Receiver pursuant to Section 6.2 of the Proposal;
- (u) “CWUO” means Clearford Water Utility (Ontario) Inc.;
- (v) “CWUO Net Advances” means the advances made by CWUO as at the Filing date, less any Intercompany Obligations owing by CWUO to the Debtor as at the Filing Date;
- (w) “CWU Fetherston” means Clearford Water Utility (Fetherston) Inc.;
- (x) “CWW” means Clearford Waterworks Inc.;
- (y) “Debtor” means Clearford Water Systems Inc., a company existing under the laws of Canada;

- (z) “Directors” means the present and former directors of the Debtor;
- (aa) “Directors’ Indemnity Claims” means all claims by Directors against the Debtor for indemnity in respect of obligations of the Debtor for which the Directors are by law liable in their capacity as Directors for the payment of such obligations;
- (bb) “Employment Insurance Act” means the *Employment Insurance Act*, S.C. 1996, c. 23, as amended;
- (cc) “Existing Securities” means all issued preferred and common shares of the Debtor and any and all, warrants, options, rights of conversion under any instruments, and any other rights or entitlements which have the capacity to be converted into or exchanged for, or give the right to acquire, shares of the Debtor in existence on the Implementation Date;
- (dd) “Filing Date” means the date of the filing of the NOI with the Official Receiver, being April 28, 2022;
- (ee) “Implementation Date” means the date upon which the conditions set forth in Section 9.3 have been satisfied;
- (ff) “Income Tax Act” means *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.), as amended;
- (gg) “Inspectors” means one or more Inspectors appointed pursuant to the BIA as provided for in the Proposal;
- (hh) “Intercompany Obligations” means; (i) indebtedness owed to the Debtor arising from advances made by the Debtor to any of its Subsidiaries, (ii) allocations of Shared Costs as between the Debtor and its Subsidiaries, or as between Subsidiaries, in accordance with past practice; and (iii) any other amounts owing by any Subsidiary to the Debtor;
- (ii) “Levy” has the meaning ascribed to it in Section 4.8 of the Proposal.
- (jj) “Lexus” means Lexus Continental Limited;
- (kk) “Lexus Debenture” means the Convertible Debenture and Share Pledge in the principal amount of CAD\$2,975,000 dated November 1, 2017, as amended by an (undated) Amending Agreement;
- (ll) “Lexus Indebtedness” means the amounts owing by the Debtor to Lexus under the Lexus Debenture;
- (mm) “Longbeach” means 486606 Ontario Inc., operating as Longbeach Waterworks;

- (nn) “Morebath” means Morebath Limited;
- (oo) “Morebath CWU Fetherston Debenture” means the Convertible Debenture and Share Pledge in the principal amount of CAD\$500,000 dated November 5, 2018, as amended by an undated Amending Agreement;
- (pp) “Morebath Debentures” means collectively, the Morebath CWU Fetherston Debenture, the Morebath Longbeach Debenture, and the Morebath UV Pure Debenture;
- (qq) “Morebath Longbeach Debenture” means the Convertible Debenture and Share Pledge in the principal amount of CAD\$1,650,000 dated May 15, 2018, as amended by an undated Amending Agreement;
- (rr) “Morebath UV Pure Debenture” means the Convertible Debenture and Share Pledge in the principal amount of CAD\$3,500,000 dated August 5, 2015, as amended by an Amending Agreement dated August 5, 2017 and an undated Amending Agreement (No. 2);
- (ss) “Morebath Indebtedness” means the amounts owing by the Debtor to Morebath under the Morebath Debentures;
- (tt) “New Common Shares” means the new voting common shares and non-voting common shares of the Debtor to be issued to the Sponsors (or their Designated Assignee as defined in the Sponsor Support Agreement) on the Implementation Date pursuant to and in accordance with the terms of the Articles of Reorganization;
- (uu) “NOI” means the Notice of Intention to Make a Proposal filed with the office of the Official Receiver on the Filing Date.
- (vv) “Non-Sponsor Secured Claims” means the Claims of Persons, other than the Sponsors, holding valid registered security interests over the Property, including, without limitation, Enterprise Fleet Management Canada, Inc.
- (ww) “Note Participants” mean the Persons (and corresponding priorities and participation amounts) listed in Schedule “A” to the Contingent Value Note;
- (xx) “Note Holder Representative” shall have the meaning ascribed to it in the Contingent Value Note.
- (yy) “Official Receiver” shall have the meaning ascribed thereto in the BIA;
- (zz) “Ordinary Claim Determination Date” means the date on which the validity of all Proofs of Claim filed by Ordinary Creditors has been finally determined in accordance with the BIA;

- (aaa) “Ordinary Creditors” means Creditors with Proven Claims, except for those Claims that are:
 - (i) Claims by Preferred Creditors;
 - (ii) Affected Intercompany Claims;
 - (iii) the Lexus Indebtedness
 - (iv) the Morebath Indebtedness;
 - (v) the SWP Loans;
 - (vi) the SW Everett Loan; or
 - (vii) Unaffected Claims.
- (bbb) “Person” means any individual, general or limited partnership, joint venture, trust, corporation, unincorporated organization, government, or any agency, regulatory body or instrumentality thereof, or any other entity howsoever designated or constituted;
- (ccc) “Preferred Claim Determination Date” means the date on which the validity of all Proofs of Claim filed by Preferred Creditors has been finally determined in accordance with the BIA;
- (ddd) “Preferred Creditors” means Creditors with Proven Claims and which are, subject to the rights of secured creditors, required by the BIA to be paid in priority to all other Claims under a proposal made by a debtor and including, without limitation, the Required Employee Amount (for greater certainty a Person can be both a Preferred Creditor and an Unsecured Creditor in respect of distinct Claims);
- (eee) “Priority Creditor Cash Amount” means the cash amount necessary to pay and satisfy: (i) the Administrative Fees and Expenses and Administrative Fee Reserve as determined by the Trustee; (ii) the Affected Claims of Preferred Creditors; and (iii) the Required Crown Amount, which Priority Creditor Cash Amount shall be delivered by the Sponsors to the Trustee on or before the Proposal is filed with the Official Receiver (and shall be subject to adjustment, if necessary);
- (fff) “Proof of Claim” shall mean the proof of claim required by the BIA to be mailed to each known Creditor prior to the Creditors’ Meeting;
- (ggg) “Property” means the property, assets and undertaking of the Debtor, including without limitation the shares of the Subsidiaries;

- (hhh) “Proposal” means this proposal together with any amendments or additions thereto;
- (iii) “Proven Claim” of a Creditor means the amount of the Affected Claim of such Creditor finally determined in accordance with the BIA;
- (jjj) “Required Employee Amount” means an amount equal to the amount that employees and former employees of the Debtor (not including independent commissioned sales agents or contractors) would have been qualified to receive under paragraph 136(1)(d) of the BIA if the Debtor became bankrupt on the Filing Date, as well as wages, salaries, commissions or compensation for services rendered after that date and before the Court approval of the Proposal, together with, in the case of travelling salespersons, disbursements properly incurred by those salespersons in and about the Debtor’s business during the same period;
- (kkk) “Required Crown Amount” means all amounts outstanding at the time of the filing of the Proposal with the Official Receiver to Her Majesty in Right of Canada or a Province and that are of a kind that could be subject to a demand under,
 - (i) subsection 224(1.2) of the *Income Tax Act*;
 - (ii) any provision of the Canada Pension Plan or of the *Employment Insurance Act* that refers to subsection 224(1.2) of the *Income Tax Act* and provides for the collection of a contribution, as defined in the Canada Pension Plan, or an employee’s premium, or employer’s premium, as defined in the *Employment Insurance Act*, and of any related interest, penalties or other amounts; or
 - (iii) any provision of provincial legislation that has a similar purpose to subsection 224(1.2) of the *Income Tax Act*, or that refers to that subsection, to the extent that it provides for the collection of a sum, and of any related interest, penalties or other amounts, where the sum:
 - (A) has been withheld or deducted by a person from a payment to another person and is in respect of a tax similar in nature to the income tax imposed on individuals under the *Income Tax Act*, or
 - (B) is of the same nature as a contribution under the Canada Pension Plan if the province is a “province providing a comprehensive pension plan” as defined in subsection 3(1) of the Canada Pension Plan and the provincial legislation establishes a “provincial pension plan” as defined in that subsection;

- (lll) “Sponsor Cash Payments” means the Priority Creditor Cash Amount and the Unsecured Creditor Cash Amount;
- (mmm) “Sponsor Security Release” has the meaning ascribed to it in the Sponsor Support Agreement;
- (nnn) “Sponsor Support Agreement” means the agreement between the Sponsors and the Debtor dated as of May 2022, substantially in the form attached as **Schedule “B”** to this Proposal, providing for, *inter alia*, the Sponsor Security Release, the Sponsor Cash Payments, the issuance of the New Common Shares to the Sponsors, and the Sponsors’ participation in the Contingent Value Note, in connection with the Proposal.
- (ooo) “Sponsors” means SWP, Morebath and Lexus;
- (ppp) “Subsidiaries” means the corporate subsidiaries of the Debtor, including: CKC; CFC, CWW; CWUO, UV Pure, CWU Fetherston, Longbeach, 1773276 Ontario Inc., Clearford India Private Limited, Clearford Industries Columbia SAS, and Clearford (Peru) SAC;
- (qqq) “SW Everett” means SW Everett Inc.
- (rrr) “SW Everett Loan” means the unsecured loan in the principal amount of USD\$3,350,000, owing by the Debtor to SW Everett pursuant to a loan agreement dated November 19, 2016;
- (sss) “SWP” means Sustainable Water Projects Inc.;
- (ttt) “SWP GSA” means the general security agreement dated May 19, 2016 granted by the Debtor in favour of SWP as security for, *inter alia* the SWP Loans;
- (uuu) “SWP Loans” means: (i) the loan in the principal amount of CDN\$3.25 million, owing by the Debtor to SWP pursuant to the loan agreement dated November 19, 2014 originally advanced by CWP as lender on or about November 19, 2014 and assigned by CWP to SWP on or about September 30, 2016; and (ii) the loan in the principal amount of US\$1.47 million, owing by the Debtor to SWP pursuant to the loan agreement dated May 19, 2016, together with accrued and unpaid interest thereon;
- (vvv) “Trustee” means KSV Restructuring Inc., or its duly appointed successor or successors;
- (www) “Unaffected Claims” means the Directors’ Indemnity Claims, the Unaffected Intercompany Claims, the Non-Sponsor Secured Claims and the Administrative Fees and Expenses;

- (xxx) “Unaffected Intercompany Claims” means all amounts owing by the Debtor to any of its Subsidiaries, other than the Affected Intercompany Claims (Affected Intercompany Claims being the CKC Net Advances, the CWUO Net Advances and CFC Net Advances);
- (yyy) “Unsecured Creditors” means, collectively, the Preferred Creditors, SW Everett, CKC, CWUO, CFC and the Ordinary Creditors;
- (zzz) “Unsecured Creditors Cash Amount” means the payment or payments to be made by the Sponsors to the Trustee, in an amount equal to the lesser of (i) \$325,000 and (ii) the amount required to pay: (a) any Administrative Fees and Expenses including the Administrative Fee Reserve as determined by the Trustee; (b) the amount, if any, that remains owing by the Debtor on account of the Proven Claims of Preferred Creditors, and (c) the amount owing by the Debtor on account of the Proven Claims of Ordinary Creditors, which Unsecured Creditor Cash Amount shall be paid by the Sponsor to the Trustee within three Business Days of the Trustee’s written request;
- (aaaa) “UV Pure” means UV Pure Technologies Inc.; and
- (bbbb) “Voting Letter” shall mean the voting letter required by Section 51(1) of the BIA to be mailed to each known Creditor prior to the Creditors’ Meeting.

1.2 Articles of Reference

The terms “hereof”, “hereunder”, “herein” and similar expressions refer to the Proposal and not to any particular article, section, subsection, clause or paragraph of the Proposal and include any agreements supplemental hereto. In the Proposal, a reference to an article, section, subsection, clause or paragraph will, unless otherwise stated, refer to an article, section, subsection, clause or paragraph of the Proposal.

1.3 Interpretation Not Affected by Headings

The division of the Proposal into articles, sections, subsections, clauses or paragraphs and the insertion of a table of contents and headings are for convenience of reference only and will not affect the construction or interpretation of this Proposal.

1.4 Date for Any Action

In the event that any date on which any action is required to be taken hereunder is not a Business Day, such action will be required to be taken on the next succeeding day which is a Business Day.

1.5 Time

All times expressed herein are local time in Ottawa, Ontario, Canada unless otherwise stipulated. Where the time for anything pursuant to the Proposal on a particular

date is unspecified herein, the time shall be deemed to be 5:00 p.m. local time in Ottawa, Ontario, Canada.

1.6 Numbers, Gender

In the Proposal, where the context requires, a word importing the singular number will include the plural and vice versa and a word or words importing gender will include all genders.

1.7 Currency

Unless otherwise stated herein, all references to currency in the Proposal are to lawful money of Canada.

1.8 Statutory References

Except as otherwise provided herein, any reference in the Proposal to a statute includes all regulations made thereunder, all amendments to such statute or regulation(s) in force from time to time, and any statute or regulation that supplements or supersedes such statute or regulation(s).

1.9 Successors and Assigns

The Proposal will be binding upon and will enure to the benefit of the heirs, administrators, executors, legal personal representatives, successors and assigns of any Person named or referred to in the Proposal.

1.10 Schedules

The terms and conditions of Schedule "A" (Articles of Reorganization), Schedule "B" (Sponsor Support Agreement), and Schedule "C" (Contingent Value Note) form an integral part of this Proposal and should be read in conjunction with this Proposal.

**ARTICLE 2
PURPOSE OF THE PROPOSAL**

2.1 PURPOSE OF THE PROPOSAL

The purpose of this Proposal is to allow the Debtor to effect the restructuring of the indebtedness of the Debtor in the manner contemplated herein and as permitted by the BIA in the expectation that all Affected Creditors will derive greater benefit from the restructuring than they would otherwise receive from a bankruptcy of the Debtor and to provide for:

- (a) the payment of the Proven Claims of Preferred Creditors (including the Required Employee Amount and the Required Crown Amount) from the Priority Creditor Cash Amount

- (b) the payment of the Proven Claims of Ordinary Creditors from the Unsecured Creditor Cash Amount;
- (c) the effective cancellation of all Existing Securities;
- (d) the issuance of New Common Shares to the Sponsors in accordance with the Articles of Reorganization and Sponsor Support Agreement; and
- (e) the restructuring of the Morebath Indebtedness, the Lexus Indebtedness, the SWP Indebtedness, the SW Everett Loan and the Affected Intercompany Claims into participation interests in the Contingent Value Note.

The Proposal applies to all Affected Creditors, whether or not any such Affected Creditor proves a Claim against the Debtor under this Proposal. This Proposal does not affect Unaffected Claims.

2.2 Corporate Reorganization

This Proposal contemplates a Court ordered corporate reorganization of the capital structure of the Debtor in accordance with section 59(4) of the BIA. The Articles of Reorganization attached as Schedule “A” to the Proposal shall, upon Court approval of the Proposal, amend the constating documents of the Debtor to, *inter alia*, effect the redemption or cancellation of all Existing Securities, and authorize the issuance of one or more series of New Common Shares by the Debtor to the Sponsors or their Designated Assignee on the Implementation Date.

ARTICLE 3 CLASSIFICATION OF CREDITORS

3.1 Classes of Creditors

For the purposes of voting on the Proposal, the Creditors of the Debtor shall be comprised of one class of Unsecured Creditors.

ARTICLE 4 TREATMENT OF CREDITORS

4.1 Administrative Fees and Expenses

Within five Business Days of the receipt of the Unsecured Creditors Cash Amount by the Trustee, all Administrative Fees and Expenses incurred to that date which remain unpaid shall be paid, in full, in accordance with section 60(1) of the BIA.

4.2 Sponsor Support Agreement

On the Implementation Date, in consideration for the Sponsor Cash Payments and the Sponsor Security Release, and in accordance with the terms and conditions of the Sponsor Support Agreement; (i) the New Common Shares shall be issued

to the Sponsors or the Designated Assignee in accordance with the Articles of Reorganization and Sponsor Support Agreement; and (ii) the SWP Loans the Lexus Indebtedness and the Morebath Indebtedness shall be released and restructured into the Sponsors' prescribed Note Participant interests in the Contingent Value Note in accordance with section 4.3 of the Proposal.

4.3 Issuance of the Contingent Value Note

On the Implementation Date: (i) the Affected Claims of the Note Participants shall be released, discharged and extinguished as against the Debtor (the "**Participant Releases**"); and (ii) in consideration for the Participant Releases, the Debtor shall issue the Contingent Value Note to the Note Participants in full satisfaction of their Affected Claims.

4.4 Compromise and Satisfaction of Creditor Claims

The Claims of all Affected Creditors shall be compromised on the Implementation Date and thereafter each Affected Creditor with a Proven Claim, other than Note Participants, shall receive the following distributions from the Trustee in full satisfaction of its Proven Claim(s):

- (a) within ten (10) Business Days of the Preferred Claim Determination Date, a distribution from the Priority Creditor Cash Amount in the amounts of the Proven Claim of each Preferred Creditor, including, subject to Section 4.6, the Required Crown Amount; and
- (b) within ten (10) Business Days of the Ordinary Claim Determination Date and subject to section 4.1, a pro rated distribution from the Unsecured Creditor Cash Amount, net of the Administrative Fee Reserve.

Any amounts remaining with the Trustee from the Priority Creditor Cash Amount or the Unsecured Creditor Cash Amount in excess of the amounts required to effect the payments in (a) or (b) above, or remaining in the Administrative Fee Reserve after payment of all Administrative Fees and Expenses (the "**Residual Amount**"), shall be repaid to the Sponsors at such time as may be determined by the Trustee prior to its discharge.

4.5 No Interest on Claims

Interest will not accrue or be paid on Affected Claims after or in respect of the period following the Filing Date and no Creditor with an Affected Claim will be entitled to any interest in respect of such Claim accruing on or after or in respect of the period

following the Filing Date. For greater certainty, once all Proven Claims of Ordinary Creditors have been paid in full, the Residual Amount if any shall be repaid to the Sponsors.

4.6 Required Crown Amount

In the event that the Trustee determines that the Preferred Claim Determination Date will occur more than six (6) months from the date of Court approval of the Proposal, the Required Crown Amount shall be remitted by the Trustee to Her Majesty in Right of Canada from the Unsecured Creditor Cash Amount within six (6) months of the date of Court approval of the Proposal.

4.7 Obligations of the Sponsors

The Sponsors shall pay the Sponsor Cash Payments and effect the Sponsor Security Releases in accordance with the Sponsor Support Agreement.

4.8 Superintendent of Bankruptcy Levy

The Office of the Superintendent of Bankruptcy shall be paid its prescribed levy by the Trustee in respect of distributions to Ordinary Creditors and to Preferred Creditors, and by the Debtor in respect of payments to Note Participants, as required by sections 60(4) and 147 of the BIA (the “Levy”).

ARTICLE 5 PROCEDURE FOR VALIDATION OF CLAIMS

5.1 Allowance or Disallowance of Claims by the Trustee

Upon receipt of a completed Proof of Claim, the Trustee shall examine the Proof of Claim and shall deal with each claim in accordance with the provisions of the BIA. The Trustee shall have the power and authority to determine the validity of all claims made against the Debtor.

5.2 Claims Bar Process

Forthwith after the Creditors’ Meeting, the Trustee shall give notice pursuant to section 149 of the BIA, by registered mail, to every Person with an Affected Claim of which the Trustee has notice or knowledge based on the books and records of the Debtor, but whose claim has not been filed or proven, that if such Person does not prove his claim within a period of thirty (30) days after the mailing of the notice, the Trustee will proceed to declare a dividend without regard to such Person’s claim and the dividend referred to in said notice shall be deemed a final dividend and any Person so notified who does not provide its claim within the said thirty (30) day period shall be barred from making a claim in this Proposal, subject to any exceptions set out in subsections 149(2)(3) and (4) of the BIA.

ARTICLE 6 MEETING OF CREDITORS

6.1 Creditors' Meeting

On the Creditors' Meeting Date, the Trustee shall hold the Creditors' Meeting in order for the Creditors to consider and vote upon the Proposal.

6.2 Time and Manner of Meeting

The Creditors' Meeting shall be held at a time and in a manner, including by video-conference, to be established by the Trustee in consultation with Official Receiver, or the nominee thereof, and confirmed in its notice of meeting to be mailed by the Trustee pursuant to the BIA. All Proofs of Claim shall be delivered in accordance with the provisions of the Proposal, the BIA and any Order which may be issued by the Court in respect of the procedure governing the Creditors' Meeting.

6.3 Conduct of Meetings

The Official Receiver, or the nominee thereof, shall preside as the chair of the Creditors' Meeting and will decide all matters relating to the conduct of the Creditors' Meeting. The only Persons entitled to attend the Creditors' Meeting are those Unsecured Creditors with Proven Claims, including the holders of proxies, entitled to vote at the Creditors' Meeting and their respective legal counsel, if any, the officers, directors, auditors and legal counsel of the Debtor, one or more representatives of and legal counsel to the Sponsor, together with such representatives of the Trustee as the Trustee may appoint in its discretion and Trustee's legal counsel, and such scrutineers as may be duly appointed by the chair of such meeting. Any other Person may be admitted on invitation of the chair of the Creditors' Meeting or with the consent of the Creditors.

6.4 Adjournment of Meetings

The Creditors' Meeting may be adjourned in accordance with Section 52 of the BIA.

6.5 Voting by Creditors

To the extent provided for herein, each Creditor will be entitled to vote to the extent of the amount which is equal to that Creditor's Proven Claim, or such amount as may be agreed to by the Trustee for voting purposes at or prior to the Creditors' Meeting (dollar amounts to be voted by Creditors in accordance with the foregoing are referred to as "**Voting Claims**").

6.6 Acceptance by Creditors

In order that the Proposal be binding on the class of Unsecured Creditors in accordance with the BIA, it must first be accepted by a majority in number of the Unsecured Creditors who actually vote upon the Proposal (in person or by proxy) at the

Creditors' Meeting or by a Voting Letter, representing two-thirds in value of the Voting Claims of the Unsecured Creditors who actually vote upon the Proposal (whether in person or by proxy) at the Creditors' Meeting or by a Voting Letter.

6.7 Appointment of Inspectors

At the Creditors' Meeting, the Creditors may appoint up to five (5) Inspectors whose powers will be limited to:

- (a) advising the Trustee concerning any dispute which may arise as to the validity of Claims; and
- (b) advising the Trustee from time to time with respect to any other matter that the Trustee may refer to them.

Any decision, direction or act of the Inspectors may be referred to the Court by the Trustee and the Court may confirm, reverse or modify the decision, direction or act and make such order as it thinks just.

The authority and term of office of the Inspectors will terminate upon the performance of the Proposal in accordance with section 7.1 hereof.

6.8 Valuation of Claims

The procedure for valuing Claims of Creditors and resolving disputes with respect to such Claims will be as set forth in Section 5 and the BIA. The Debtor and/or the Trustee reserve the right to seek the assistance of the Court in valuing the Claim of any Unsecured Creditor, if required, to ascertain the result of any vote on the Proposal or the amount payable or to be distributed to such Unsecured Creditor under the Proposal, as the case may be.

ARTICLE 7 COMPLETION OF THE PROPOSAL

7.1 Discharge of Trustee

Upon distribution by the Trustee of the balance of the Unsecured Creditor Cash Amount (or upon the repayment of the Residual Amount to the Sponsors), net of the Administrative Fee Reserve, as contemplated in Section 4.4, the Trustee shall have discharged its duties as Trustee, the Proposal shall be fully performed and the Trustee shall be entitled to apply for its discharge as Trustee hereunder.

The Trustee is acting in its capacity as Trustee under the BIA and not in its personal capacity and no officer, director, employee or agent of the Trustee shall incur any liabilities or obligations in connection with the Proposal or in respect of the business or obligations of the Debtor or the Sponsors and will be exempt from any personal liability in fulfilling any duties or exercising any powers conferred upon it by this Proposal unless

such acts have been carried out in bad faith and constitute wilful misconduct or gross negligence.

7.2 Completion of The Proposal

The payment, compromise, extinguishment or other satisfaction of any Affected Claim under the Proposal will be binding upon each Affected Creditor, its heirs, executors, administrators, successors and assigns, for all purposes, and as and from the Implementation Date all Affected Claims shall be forever discharged and released, excepting only the obligations to make distributions in respect of such Affected Claims in the manner and to the extent provided for in the Proposal.

ARTICLE 8 PREFERENCES, TRANSFERS AT UNDER VALUE, ETC.

8.1 Sections 95-101 of the BIA

Sections 95-101 of the BIA and any provincial statute related to preference, fraudulent conveyance, transfer at undervalue, or the like shall not apply to this Proposal.

8.2 Recourse

As a result of and in accordance with Section 8.1 hereof:

- (a) all such rights, remedies and recourses and any Affected Claims based thereon shall be completely unavailable to the Trustee or any Creditor against the Company, any other Creditor or any other person whatsoever; and
- (b) the Trustee and all of the Creditors shall be deemed, for all purposes whatsoever, to have irrevocably and unconditionally waived and renounced such rights, remedies and recourses and any Affected Claims based thereon against the Company, any other Creditor or any other persons.

ARTICLE 9 MISCELLANEOUS

9.1 Modification of Proposal

The Debtor, with the consent of the Trustee and the Sponsors, may propose an alteration or modification to the Proposal prior to the conclusion of the first Creditors' Meeting called to consider the Proposal. In the Trustee's discretion, the Creditors' Meeting may be adjourned in accordance with Section 52 of the BIA to advise creditors not in attendance of such modification.

9.2 Consents, Waivers and Agreements

As at 12:01 a.m. on the Implementation Date, each Creditor will be deemed to have:

- (a) executed and delivered to the Debtor all consents, releases, assignments and waivers, statutory or otherwise, required to implement and carry out the Proposal in its entirety;
- (b) waived any default by the Debtor in any provision, express or implied, in any agreement or other arrangement, written or oral, existing between such Creditor and the Debtor that has occurred on or prior to the Implementation Date;
- (c) agreed, in the event that there is any conflict between the provisions, express or implied, of any agreement or other arrangement, written or oral, existing between such Creditor and the Debtor as at the Implementation Date (other than those entered into by the Debtor on, or with effect from, the Implementation Date) and the provisions of the Proposal, that the provisions of this Proposal shall take precedence and priority and the provisions of such agreement or other arrangement shall be amended accordingly; and
- (d) released the Debtor, the Trustee, the Directors, and all of their respective affiliates, employees, agents, directors, officers, shareholders, advisors, consultants and solicitors from any and all demands, claims, actions, causes of action, counter-claims, suits, debts, sums of money, accounts, covenants, damages, judgements, expenses, executions, liens, set off rights and other recoveries on account of any liability, obligation, demand or cause of action of whatever nature which any Person may be entitled to assert, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the Implementation Date, relating to or arising out of or in connection with the matters herein, provided however, that the scope of such release shall not exceed the scope permissible under the BIA.

9.3 Conditions to Proposal Implementation

The implementation of the Proposal by the Debtor will be conditional upon the fulfilment or satisfaction of the following conditions:

- (a) acceptance of the Proposal by the Unsecured Creditors;
- (b) approval by the Court of the Proposal and the amendments to the Debtor's constating documents as set out in the Articles of Reorganization by the Court pursuant to a final and non-appealable Approval Order;
- (c) the payment by the Sponsors of the Priority Creditor Cash Amount; and

- (d) the implementation of the Sponsor Security Release.

9.4 Release

Upon the Implementation Date, each and every Director shall be released and discharged from any and all Director Claims, provided however that the scope of such release shall not exceed the scope permitted under the BIA. This release shall have no force or effect if the Debtor goes bankrupt before the terms of the Proposal are performed.

9.5 Effect of Proposal Generally

As at 12:01 a.m. on the Implementation Date, the treatment of all Claims under the Proposal shall be final and binding on the Debtor and all Creditors (along with their respective heirs, executors, administrators, legal personal representatives, successors and assigns) and the Proposal shall constitute (i) a full, final and absolute settlement of all rights of the holders of the Claims affected hereby; and (ii) an absolute release and discharge of all indebtedness, liabilities and obligations of the Debtor of or in respect of such Claims.

9.6 Notices

Any notices or communication to be made or given hereunder shall be in writing and shall refer to this Proposal and may, subject as hereinafter provided, be made or given by personal delivery, by prepaid mail or by receipted email (except for Proofs of Claim which may only be sent by personal delivery, receipted email or registered mail) addressed to the respective parties as follows:

- (a) if to the Debtor:

Clearford Water Systems Inc.
300-1545 Carling Avenue
Ottawa, Ontario
K1Z 8P9
Attention: Kevin Loiselle, President and CEO
Email: kloiselle@clearford.com

- (b) if to a Creditor, to the address or email address for such Creditor specified in the Proof of Claim filed by Creditor or, if no Proof of Claim has been filed, to such other address or email address at which the notifying party may reasonably believe that the Creditor may be contacted; and

- (c) if to the Trustee:

KSV Restructuring Inc.
150 King Street West, P.O. Box 42

Toronto Ontario M5H 1J9

Attention: Bobby Kofman
Email: bkofman@ksvadvisory.com

or to such other address or email address as any party may from time to time notify the others in accordance with this section. In the event of any strike, lock-out and other event which interrupts postal service in any part of Canada, all notices and communications during such interruption may only be given or made by personal delivery or by receipted email and any notice or other communication given or made by prepaid mail within the five (5) Business Day period immediately preceding the commencement of such interruption will be deemed not to have been given or made. All such notices and communications will be deemed to have been received, in the case of notice by email or by delivery prior to 5:00 p.m. (local time) on a Business Day, when received or if received after 5:00 p.m. (local time) on a Business Day or at any time on a non-Business Day, on the next following Business Day and in the case of notice mailed as aforesaid, on the fifth (5th) Business Day following the date on which such notice or other communication is mailed. The unintentional failure to give a notice contemplated hereunder to any particular Creditor will not invalidate this Proposal or any action taken by any Person pursuant to this Proposal.

9.7 Assignment of Claims

No assignment of a Claim by an Affected Creditor is effective to give the assignee any rights in respect of the Proposal unless written notice of the assignment is given to the Debtor and the Trustee in accordance with the requirements of Section 9.6. The assignment of the Claim will not be effective for a period of five (5) Business Days from the date of effective receipt of the notice of assignment by the Debtor and by Trustee as determined in accordance with Section 9.6.

9.8 Foreign Currency Obligations

For purposes of this Proposal, Claims denominated in a currency other than Canadian funds will be converted to Canadian Dollars at the closing spot rate of exchange of the Bank of Canada on the Filing Date.

9.9 Applicable Law

The Proposal shall be construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein and shall be treated in all respects as an Ontario contract.

9.10 Non-Severability

It is intended that all material provisions of this Proposal shall be fully binding on and effective between all Persons named or referred to in this Proposal and in the event that any material provision or provisions of the Proposal is or are found by the

Court to be void, voidable or unenforceable for any reason whatever, then the remainder of this Proposal and all other provisions shall be void and of no force or effect.

9.11 Deeming Provisions

In the Proposal the deeming provisions are not rebuttable and are conclusive and irrevocable.

DATED at the City of Ottawa, in the Province of Ontario, this 19th day of May, 2022.

CLEARFORD WATER SYSTEMS INC.

Per:



Kevin Loiselle, President and CEO

SCHEDULE "A"

Schedule to Articles of Reorganization of Clearford Water Systems Inc.

1. to amend the authorized share capital of the Corporation to:
 - (a) create an unlimited number of shares of a class designated as “New Common Shares”;
 - (b) create an unlimited number of shares of a class designated as “Non-Voting Common Shares”; and
 - (c) create an unlimited number of shares of a class designated as “Redeemable Shares”;
2. to change each common share and the 1 Class A Special Share into 0.000001 (one one-millionth) of a Redeemable Share;
3. to cancel all options, option contracts, warrants, any rights of conversion under any instrument and any other rights or interests that are capable of being exercised to acquire or converted into common shares and Class A Special Shares;
4. to remove the authorized but unissued common shares and the Class A Special Share and all rights, privileges, restrictions and conditions attaching thereto;
5. to declare that the capital of the Corporation after giving effect to the foregoing shall consist of an unlimited number of New Common Shares, an unlimited number of Non-Voting Common Shares and an unlimited number of Redeemable Shares with the rights, privileges, restrictions and conditions set out in these Articles attaching thereto;
6. to establish that there shall be a minimum number of one (1) and a maximum number of ten (10) directors of the Corporation and that the number of directors of the Corporation, and the number of directors to be elected at each annual meeting of the shareholders of the Corporation, within the minimum and maximum numbers provided for above, shall be one until otherwise determined by the board of directors;
7. to provide that the issue, transfer or ownership of shares is restricted and the restrictions are as follows:

The right to transfer shares of the Corporation shall be restricted in that no shares shall be transferred without either: (a) the consent of the directors of the Corporation expressed by a resolution passed by the directors or by an instrument or instruments in writing signed by a majority of the directors, which consent may be given either prior or subsequent to the time of transfer of such shares, or (b) the consent of the holders of shares of the Corporation to which are attached at least a majority of the votes attaching to all shares of the Corporation for the time being outstanding carrying a voting right either under all circumstances or under some

circumstances that have occurred and are continuing, expressed by resolution passed by such shareholders or by an instrument or instruments in writing by such shareholders, which consent may be given either prior or subsequent to the time of transfer of such shares.

8. The rights, privileges, restrictions and conditions attaching to the Redeemable Shares are as follows:
 - (a) **Fractional interest:** No holder of a fractional interest in a Redeemable Share will be entitled to be registered on the books of the Corporation in respect of such fraction of a Redeemable Share.
 - (b) **Redemption by the Corporation:** All of the Redeemable Shares, into which the common shares and the Class A Special Share and fractional interests therein outstanding immediately prior to the Effective Time were changed pursuant to the Proposal and the terms hereof, will be deemed to be automatically redeemed by the Corporation as of the Effective Time, without notice to the holders of such Redeemable Shares, on payment, subject to the terms hereof, of \$0.01 for each whole Redeemable Share (such amount being herein referred to as the “**Redemption Price**”). The Corporation will pay or cause to be paid to each holder of Redeemable Shares or fractional interests therein to be redeemed the Redemption Price by cheque, provided that if the aggregate Redemption Price payable to any particular holder is less than \$10.00, the actual Redemption Price payable to each such holder of Redeemable Shares will be deemed to be \$0.00 and the Redeemable Shares or fractional interests therein held by each such holder of Redeemable Shares will be redeemed without any payment or further act or formality by the Corporation or otherwise.
 - (c) **Voting Rights:** Except as required by the Act and these Articles, the holders of the Redeemable Shares or fractional interests therein will not be entitled to receive notice of or to attend any meeting of the shareholders of the Corporation and will not be entitled to vote at any such meeting.
9. The rights, privileges, restrictions and conditions attaching to the New Common Shares are as follows:
 - (a) **Payment of Dividends:** The holders of the New Common Shares will be entitled to receive dividends, concurrently with the holders the Non-Voting Common Shares, if, as and when declared by the board of directors of the Corporation out of the assets of the Corporation properly applicable to the payment of dividends in such amounts and payable in such manner as the board may from time to time determine. For greater certainty, dividends may not be declared on the New Common Shares without being declared in the same amount per share, and payable upon identical terms as dividends paid, on the Non-Voting Common Shares.

- (b) **Participation upon Liquidation, Dissolution or Winding Up:** In the event of the liquidation, dissolution or winding up of the Corporation or other distribution of assets of the Corporation among its shareholders for the purpose of winding up its affairs, subject to the rights of the holders of any other class of shares of the Corporation entitled to receive assets of the Corporation upon such a distribution in priority to or concurrently with the holders of the New Common Shares, the holders of the New Common Shares will be entitled to participate in the distribution of assets or property of the Corporation on an equal basis with the holders of the Non-Voting Common Shares.
 - (c) **Voting Rights:** The holders of the New Common Shares will be entitled to receive notice of and to attend all annual and special meetings of the shareholders of the Corporation and to one vote in respect of each New Common Share held at all such meetings.
- 10. The rights, privileges, restrictions and conditions attaching to the Non-Voting Common Shares are as follows:
 - (a) **Payment of Dividends:** The holders of the Non-Voting Common Shares will be entitled to receive dividends, concurrently with the holders the New Common Shares, if, as and when declared by the board of directors of the Corporation out of the assets of the Corporation properly applicable to the payment of dividends in such amounts and payable in such manner as the board may from time to time determine. For greater certainty, dividends may not be declared on the Non-Voting Common Shares without being declared in the same amount per share, and payable upon identical terms as dividends paid, on the New Common Shares.
 - (b) **Participation upon Liquidation, Dissolution or Winding Up:** In the event of the liquidation, dissolution or winding up of the Corporation or other distribution of assets of the Corporation among its shareholders for the purpose of winding up its affairs, subject to the rights of the holders of any other class of shares of the Corporation entitled to receive assets of the Corporation upon such a distribution in priority to or concurrently with the holders of the Non-Voting Common Shares, the holders of the Non-Voting Common Shares will be entitled to participate in the distribution of assets or property of the Corporation on an equal basis with the holders of the New Common Shares.
 - (c) **Voting Rights:** Except as required by the Act and these Articles, the holders of the Non-Voting Common Shares or fractional interests therein will not be entitled to receive notice of or to attend any meeting of the shareholders of the Corporation and will not be entitled to vote at any such meeting.
- 11. For the purposes of these Articles the following capitalized terms shall have the following respective meanings:

- (a) “**Act**” shall mean the *Canada Business Corporations Act*, as amended.
- (b) “**Class A Special Share** ” shall mean the Class A Special Share of the Corporation in existence immediately prior to the Effective Time.
- (c) “**Common Shares**” shall mean the common shares of the Corporation in existence immediately prior to the Effective Time.
- (d) “**Effective Time**” shall mean 12:01 a.m. on the “Implementation Date” as defined in the Proposal.
- (e) “**New Common Shares**” shall mean the new common shares of the Corporation.
- (f) “**Non-Voting Common Shares**” shall mean the non-voting common shares of the Corporation.
- (g) “**Proposal**” shall mean the Proposal pursuant to Part III of the *Bankruptcy and Insolvency Act* (Canada) of the Corporation to its Creditors dated May 12, 2022.
- (h) “**Redeemable Shares**” shall mean the redeemable preferred shares of the Corporation into which the Common Shares and the Class A Special Share are changed pursuant to the terms hereof.

SCHEDULE "B"

RESTRUCTURING AND SUPPORT AGREEMENT

THIS RESTRUCTURING AND SUPPORT AGREEMENT ("Agreement") is made as of May 12 2022

AMONG:

SUSTAINABLE WATER PROJECTS INC. ("SWP")

- and -

MOREBATH LIMITED ("Morebath")

-and-

LEXUS CONTINENTAL LTD. ("Lexus", and together with SWP and Morebath, the "Sponsors" and individually a "Sponsor")

- and -

CLEARFORD WATER SYSTEMS INC. INC., ("CWSI")

RECITALS:

WHEREAS CWSI is indebted to SWP (the "**SWP Indebtedness**") in respect of: (i) the loan in the principal amount of CDN\$3.25 million, owing by the Debtor to SWP pursuant to the loan agreement dated November 19, 2014 originally advanced by Canadian Water Projects Inc. ("**CWP**") as lender on or about November 19, 2014 and assigned by CWP to SWP on or about September 30, 2016; and (ii) the loan in the principal amount of US\$1.47 million, owing by the Debtor to SWP pursuant to the loan agreement dated May 19, 2016 (the "**SWP Loan Agreements**"), together with accrued and unpaid interest thereon;

AND WHEREAS the SWP Loans are secured by a general security agreement dated May 19, 2016 granted by CWSI in favour of SWP (the "**SWP Security**");

AND WHEREAS CWSI is indebted to Morebath (the "**Morebath Indebtedness**") in respect of advances made pursuant to: (i) the Convertible Debenture and Share Pledge in the principal amount of CAD\$3,500,000 dated August 5, 2015, as amended by an Amending Agreement dated August 5, 2017 and an (undated) Amending Agreement (No. 2); (ii) the Convertible Debenture and Share Pledge in the principal amount of CAD\$1,650,000 dated May 15, 2018, as amended by an undated Amending Agreement; and (iii) the Convertible Debenture and Share Pledge in the principal amount of CAD\$500,000 dated November 5, 2018, as amended by an undated Amending Agreement (the "**Morebath Debentures**"), together with accrued and unpaid interest thereon;

AND WHEREAS the Morebath Indebtedness is secured by pledges of shares in certain subsidiary corporations owned by CWSI, granted by the terms of the Morebath Debentures (the "**Morebath Share Pledges**");

AND WHEREAS CWSI is indebted to Lexus (the "**Lexus Indebtedness**" and together with the SWP Loans and the Morebath Indebtedness, the "**Sponsor Indebtedness**") in respect of advances made pursuant to: (i) the Convertible Debenture and Share Pledge in the principal amount of CAD\$2,975,000 dated November 1, 2017 as amended by an undated Amending Agreement, (the "**Lexus Debenture**" and

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together with the SWP Loan Agreements and the Morebath Debenture, the "Sponsor Loan Documents"), together with accrued and unpaid interest thereon.

AND WHEREAS the Lexus Indebtedness is secured by a pledge of the shares Clearford Koester Canada Inc., a subsidiary corporation owned by CWSI, granted by the terms of the Lexus Debentures (the "Lexus Share Pledge", and together with the SWP Security and the Morebath Share Pledges, the "Sponsor Security");

AND WHEREAS CWSI is in default of its obligations to the Sponsors under the Sponsor Loan Documents and the Sponsor Security, as a result of which the Sponsors are in a position to enforce the Sponsor Security.

AND WHEREAS, on April 28, 2022, CWSI filed a Notice of Intention to Make a Proposal ("NOI") with the Office of the Superintendent of Bankruptcy (Canada) pursuant to Part III of the *Bankruptcy and Insolvency Act* (Canada) (the "BIA") naming K.S.V Restructuring Inc. as trustee (the "Proposal Trustee");

AND WHEREAS CWSI, in consultation with the Sponsors and the Proposal Trustee, has finalized the terms of a Proposal to Creditors (the "Proposal") to be filed by CWSI pursuant to Part III of the BIA;

AND WHEREAS the Sponsors, as secured creditors of CWSI and in support of the Proposal, have agreed to allow the SWP Indebtedness and the Morebath Indebtedness and Lexus Indebtedness to be treated as "Affected Claims" as that term is defined and used in the Proposal.

AND WHEREAS, subject to the terms and conditions of this Agreement, the Sponsors wish to support the compromises, arrangements and transactions contemplated by the Proposal in order to effect the restructuring of the business of CWSI and to provide a superior outcome for CWSI's creditors as compared to a bankruptcy of CWSI and the enforcement of the Sponsor Security.

AND WHEREAS, subject to the terms and conditions thereof, CWSI has indicated its willingness to implement the Proposal and has determined that CWSI's creditors, when considered as a whole, will derive a greater benefit from the implementation of the Proposal and the continuation of CWSI's business than would result from the enforcement of the Sponsor Security;

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged) the Parties agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

Capitalized terms used herein and not otherwise defined have the meanings ascribed thereto in the Proposal. In addition to the capitalized terms defined elsewhere herein, in this Agreement

"Filing Deadline" means May 13, 2022.

"Outside Date" means July 15, 2022 or such other date as the Sponsor and CWSI may agree.

"Parties" means, collectively, SWP, Morebath, Lexus and CWSI, and "Party" means any one of them, as the context requires.

"Designated Assignee" means an assignee appointed by a Sponsor by instrument in writing delivered to CWSI before the Implementation Date, authorized and designated to receive some or all of the Sponsor's allocation of New Common Shares pursuant to section 2.2(b) of this Agreement.

1.2 Gender and Number

Any reference to gender includes all genders. Words importing the singular number only include the plural and *vice versa*.

1.3 Currency

All references to dollars or to CAD\$ are references to Canadian dollars and all references to US\$ are to United States dollars.

1.4 Headings

The division of this Agreement into Articles, Sections and Schedules, and the insertion of the recitals and headings, are for convenient reference only and do not affect the construction or interpretation of this Agreement and, unless otherwise stated, all references in this Agreement or in the Schedules hereto to Articles, Sections and Schedules refer to Articles, Sections and Schedules of and to this Agreement or of the Schedules in which such reference is made, as applicable.

1.5 Timing Generally

Unless otherwise specified, all references to time herein, and in any document issued pursuant hereto, shall mean local time in Ottawa, Ontario and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day.

1.6 Date for any Action

Unless otherwise specified, time periods within or following which any action is to be taken or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the date of such action or act to the next succeeding Business Day if the last day of the period is not a Business Day.

1.7 Governing Law

This Agreement will be governed by, interpreted, and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. Each Party irrevocably attorns and submits to the exclusive jurisdiction of the courts of the Province of Ontario and waives objection to the venue of any proceeding in such court or that such court provides an inconvenient forum.

ARTICLE 2 REPRESENTATIONS AND WARRANTIES

2.1 Representations and Warranties of the Sponsors

Each of the Sponsors severally represents and warrants to CWSI the matters set out below:

- (a) The Sponsor, is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization.
- (b) The Sponsor has the requisite power and authority to enter into and perform its obligations under this Agreement including, without limitation, to make the Sponsor Cash Payments, to provide the Sponsor Security Release, to receive or have its Designated Assignee receive the New Common Shares and to support the Proposal. This Agreement has been duly executed and delivered by the Sponsor and constitutes a legal, valid and binding agreement of the Sponsor enforceable against it in accordance with its terms, subject only to any limitation under bankruptcy, insolvency or other applicable laws affecting the enforcement of creditors' rights generally and the discretion that a court may exercise in the granting of equitable remedies such as specific performance and injunction.
- (c) The Sponsor is the legal or beneficial holder of, or exercises control and direction over, the corresponding Sponsor Indebtedness and Sponsor Security.
- (d) The Sponsor (i) is a sophisticated party with sufficient knowledge and experience to evaluate properly the terms and conditions of this Agreement; (ii) has conducted its own analysis and made its own decision to enter into this Agreement; (iii) has obtained such independent advice in this regard as it deemed appropriate; and (iv) has not relied on such analysis or decision of any Person other than its own independent advisors.
- (e) To the Sponsor's knowledge, no Person has any agreement or option, or any right or privilege (whether by law, pre-emptive or contractual) capable of becoming an agreement or option, for the purchase, acquisition or transfer of any of the Sponsor Indebtedness or Sponsor Security, or any interest therein or right thereto.
- (f) No consent, approval, order or authorization of, or declaration or filing with, any Person is required to be obtained by the Sponsor in connection with the execution and delivery of this Agreement by the Sponsor and the performance by the Sponsor of its obligations under this Agreement.
- (g) There are no claims, actions, suits, audits, proceedings, investigations or other actions pending against or, to the knowledge of the Sponsor, threatened against or affecting the Sponsor, any Affiliate of the Sponsor that, individually or in the aggregate, could reasonably be expected to have an adverse effect on the Sponsor's ability to execute and deliver this Agreement and to perform its obligations under this Agreement.
- (h) None of the execution and delivery by the Sponsor of this Agreement, the completion of the transactions contemplated hereby or the compliance by the Sponsor with its obligations hereunder will violate, contravene, result in any breach of, or be in conflict with, or constitute a default under, or create a state of facts, which after Notice (as defined below) or lapse of time or both would constitute a default under, any term or provision of: (i) any constating document of the Sponsor or (ii) any contract to which the Sponsor is a party or by which the Sponsor is bound.

2.2 Representations and Warranties of CWSI

CWSI represents and warrants to the Sponsors the matters set out below:

- (a) The CWSI Board of Directors has approved this Agreement and the filing of the Proposal, and concluded that entering into this Agreement and filing of the Proposal are both in the best interests of CWSI.
- (b) The CWSI Board of Directors has, conditional upon the Implementation of the Proposal, approved the Articles of Reorganization, the cancellation or redemption of Existing Securities, and the issuance of 6,000 new voting common shares of CWSI ("New Voting Common Shares") and 4,000 new non-voting common shares of CWSI ("New Non-Voting Common Shares" and together with the New Voting Common Shares, the "Approved New Common Shares") as follows:

Holder	New Voting Common Shares	New Non-Voting Common Shares	Total
SWP/Designated Assignee	3,000	4,000	7,000
Morebath	2,000		2,000
Lexus	1,000		1,000
Total	6,000	4,000	10,000

- (c) Each member of the CWSI Board of Directors other than Kevin Loiselle has tendered their resignation to the Chief Executive Officer to be effective upon the filing of the Articles of Reorganization.
- (d) CWSI is a corporation duly incorporated or organized and validly existing under the laws of the jurisdiction of its incorporation or organization, and has the corporate power and authority to own and operate its assets and conduct its business as now owned and conducted. This Agreement has been duly executed and delivered by CWSI, and constitutes a legal, valid and binding agreement of CWSI, enforceable against it, in accordance with its terms, subject only to any limitation under bankruptcy, insolvency or other applicable laws affecting the enforcement of creditors' rights generally and the discretion that a court may exercise in the granting of equitable remedies such as specific performance and injunction, and no other corporate proceedings on the part of CWSI are necessary to authorize this Agreement.
- (e) None of the execution and delivery by CWSI of this Agreement or the compliance by CWSI of its obligations hereunder do or will violate, contravene, result in any breach of, or be in conflict with, or constitute a default under, or create a state of facts which after Notice or lapse of time or both would constitute a default under, any term or provision of: (i) any constating documents of CWSI; (ii) any contract to which CWSI is a party or by which CWSI is bound; (iii) any judgment, decree, order or award of any Governmental Entity; or (iv) any applicable law.
- (f) There are no claims, actions, suits, audits, proceedings, investigations or other actions pending against, or, to the knowledge of CWSI, threatened against or affecting CWSI or any of CWSI properties or assets that, individually or in the aggregate, could reasonably be expected to have an adverse effect on CWSI's ability to execute and deliver this Agreement.
- (g) CWSI (i) is a sophisticated party with sufficient knowledge and experience to evaluate properly the terms and conditions of this Agreement; (ii) has conducted its own analysis and made its own decision to enter into this Agreement; (iii) has obtained such independent

advice in this regard as it deemed appropriate; and (iv) has not relied in such analysis or decision on any Person other than its own independent advisors.

ARTICLE 3 COVENANTS

3.1 Covenants of the Sponsors

In each case subject to applicable law and any order that may be granted by a court of competent jurisdiction:

- (a) Each Sponsor hereby covenants with CWSI, that from the date of this Agreement until the termination of this Agreement in accordance with its terms (the "Expiry Time"), the Sponsor will not:
 - (i) without having first obtained the prior written consent of CWSI, sell, transfer, gift, assign, convey, pledge, hypothecate, encumber, option or otherwise dispose of any right or interest in any of the Sponsor Indebtedness or Sponsor Security or enter into any agreement, arrangement, commitment or understanding in connection therewith, save and except with a Designated Assignee in respect of Approved New Common Shares; or
 - (ii) take any action inconsistent with this Agreement that would frustrate or hinder the implementation of the Proposal.
- (b) Subject to the Conditions Precedent set out in Section 4.1 hereof, each Sponsor agrees to take all commercially reasonable actions necessary to consummate the transactions contemplated by the Proposal in accordance with the terms and conditions set forth in this Agreement and the Proposal including, without limitation:
 - (i) make the Sponsor Cash Payments to the Proposal Trustee as and when required by the Proposal;
 - (ii) support the Proposal Trustee's motion for the Proposal Sanction Order;
 - (iii) provide the Sponsor Security Release, substantially in the form attached hereto as **Schedule "A"** on the Implementation Date;
 - (iv) subscribe for its prescribed allocation of Approved New Common Share issued on the Implementation Date pursuant to the Articles of Reorganization;
 - (v) on the Implementation Date, accept the Sponsor's prescribed participation interest in the Contingent Value Note to be issued by CWSI substantially in the form attached hereto as **Schedule "B"** in full accord satisfaction of its Sponsor Indebtedness; and
 - (vi) such other actions as may be reasonably required to implement the Proposal.
- (c) The Sponsor shall not:

- (i) knowingly assist any Person in taking or planning any action that would compete with, restrain or otherwise serve to interfere with or inhibit the implementation of the Proposal;
- (ii) take any action of any kind in connection with its ownership or control or direction of the Sponsor Indebtedness or Sponsor Security that would be reasonably be regarded as likely to adversely affect, reduce the success of, materially delay or interfere with the implementation of the Proposal;
- (iii) propose, file, solicit, vote for or otherwise support any alternative offer, restructuring, liquidation, workout or plan of compromise or arrangement or reorganization of or for CWSI;
- (iv) cooperate in any way with, assist or participate in, knowingly encourage or otherwise knowingly facilitate any effort or attempt by any other Person to do or seek to do any of the foregoing; or
- (v) take any other action that is materially inconsistent with its obligations under this Agreement.

3.2 Covenants of CWSI

In each case subject to applicable law and any order that may be granted by a court of competent jurisdiction:

- (a) CWSI shall file the Proposal no later than the earlier of the Business Day immediately following date of this Agreement and the Filing Deadline;
- (b) provide draft copies of all documents CWSI intends to file with the Proposal Trustee, the Superintendent of Bankruptcy or the Court to Morebath's counsel, DLA Piper (Canada) LLP ("DLA"), at least three (3) Business Days prior to the date when CWSI intends to file such document (or as soon as possible where it is not reasonably practicable to provide copies three (3) Business Days in advance), all such filings to be filed in form and substance reasonably acceptable to DLA.
- (c) CWSI shall use commercially reasonable efforts to cause the Implementation Date to occur no later than the Outside Date, including, without limitation:
 - (i) support the Proposal Trustee's motion for the Proposal Sanction Order;
 - (ii) file the Articles of Reorganization on the Implementation Date;
 - (iii) issue the Approved New Common Share issued on the Implementation Date pursuant to the Articles of Reorganization;
 - (iv) issue the Contingent Value Note in accordance with the terms of the Proposal on the Implementation Date; and
 - (v) such other actions as may be reasonably required to implement the Proposal.

- (d) Subject to the terms of this Agreement, CWSI, or any Subsidiary, shall not transfer, lease, license or otherwise dispose of all or any part of its property, assets or undertakings, other than with the consent of the Sponsors.
- (e) CWSI shall use commercially reasonable efforts to maintain its assets in a proper and prudent manner, in material compliance with all laws and directions of any Governmental Entity, and pay or cause to be paid all costs and expenses relating to its assets, which become due from the date hereof to the Proposal Implementation Date.
- (f) CWSI shall at all times prior to the Expiry Time carry on its business only in the ordinary course consistent with past practice, in accordance with all laws, except as may be expressly otherwise provided for in this Agreement or as may be consented to by the Sponsors.

ARTICLE 4 CONDITIONS

4.1 Conditions to the Sponsor's Support Obligations

Notwithstanding anything to the contrary contained in this Agreement and without limiting any other rights of the Sponsors hereunder, the obligations of the Sponsors under this Agreement shall be subject to the satisfaction of the following conditions, each of which may be waived, in whole or in part, by the Sponsors:

- (a) the Proposal and all definitive agreements, court materials and other material documents in connection with the Proposal and the Proposal Proceedings, and any and all amendments, modification or supplements relating to any of the foregoing, including, without limitation and as applicable, this Agreement, all material applications, motions, pleadings, orders, rulings and other documents filed by CWSI or the Trustee with the Court and any other material documentation required in connection with the Creditors' Meeting, shall be in form and substance acceptable to the Sponsors, acting reasonably;
- (b) all orders made and judgments rendered by any court of competent jurisdiction and all rulings and decrees of any regulatory body, agent or official in respect of the Proposal shall be satisfactory to the Sponsors, acting reasonably;
- (c) CWSI, shall have complied in all material respects with each covenant and obligation in this Agreement; the representations and warranties of CWSI set forth in this Agreement shall continue to be true and correct in all material respects (except for those representations and warranties which expressly include a materiality standard, which shall be true and correct in all respects giving effect to such materiality standard) at and as of the date hereof and at and as of the Proposal Implementation Date (except to the extent such representations and warranties are by their terms given as of a specified date, in which case such representations and warranties shall be true and correct in all material respects as of such date), except as such representations and warranties may be affected by the occurrence of events or transactions contemplated and permitted by this Agreement;
- (d) there shall not be in effect any preliminary or final decision, order or decree by a Governmental Entity, no application (other than a frivolous or vexatious application by a Person other than a Governmental Entity) shall have been made to any Governmental Entity, and no action or investigation shall have been announced, threatened or commenced by any Governmental Entity, in consequence of or in connection with the Proposal

Proceedings that restrains, impedes or prohibits (or if granted could reasonably be expected to restrain, impede or inhibit) the Proposal Proceedings or implementation of the Proposal or any material part thereof or requires or purports to require a material variation of the Proposal; and

- (e) Subject to subsection 5.1(b)(ii) all actions taken by CWSI in furtherance of the Proposal shall be consistent in all material respects with this Agreement.

4.2 Conditions to CWSI's Obligations

Notwithstanding anything to the contrary in this Agreement and without limiting any other rights of CWSI hereunder, the obligations of CWSI under this Agreement shall be subject to the satisfaction of the following conditions, each of which may be waived, in whole or in part, by CWSI:

- (a) the Sponsors shall have executed this Agreement and delivered their signature page(s) hereto to CWSI;
- (b) all orders made and judgments rendered by any court of competent jurisdiction and all rulings and decrees of any competent regulatory body, agent or official in respect of the Proposal shall be satisfactory to CWSI, acting reasonably;
- (c) the Sponsors shall have complied in all material respects with each covenant and obligation in this Agreement; the representations and warranties of the Sponsor set forth in this Agreement shall continue to be true and correct in all material respects (except for those representations and warranties which expressly include a materiality standard, which shall be true and correct in all respects giving effect to such materiality standard) at and as of the date hereof and at and as of the Proposal Implementation Date (except to the extent such representations and warranties are by their terms given as of a specified date, in which case such representations and warranties shall be true and correct in all material respects as of such date), except as such representations and warranties may be affected by the occurrence of events or transactions contemplated and permitted by this Agreement;
- (d) there shall not be in effect any preliminary or final decision, order or decree by a Governmental Entity, no application (other than a frivolous or vexatious application by a Person other than a Governmental Entity) shall have been made to any Governmental Entity, and no action or investigation shall have been announced, threatened or commenced by any Governmental Entity, in consequence of or in connection with the Proposal Proceedings that restrains, impedes or prohibits (or if granted could reasonably be expected to restrain, impede or inhibit) the Proposal Proceedings or implementation of the Proposal or any material part thereof or requires or purports to require a material variation of the Proposal; and
- (e) Subject to subsection 5.1(c)(ii) all actions taken by the Sponsors in furtherance of the Proposal shall be consistent in all material respects with this Agreement.

ARTICLE 5 GENERAL

5.1 Termination

This Agreement will terminate and be of no further force or effect upon the earliest to occur of:

- (a) the mutual agreement in writing of the Parties;
- (b) written Notice by the Sponsor to CWSI, if:
 - (i) subject to Section 5.3, any representation or warranty of CWSI under this Agreement is untrue or incorrect in any material respect; or
 - (ii) CWSI has not complied in any material respect with its covenants contained herein,

provided, that at the time of such termination, no Sponsor is in material default in the performance of its obligations under this Agreement that have not been cured within five (5) Business Days of DLA receiving Notice from CWSI of such default;

- (c) written Notice by CWSI, to DLA if:
 - (i) subject to Section 5.3, any representation or warranty of a Sponsor under this Agreement is untrue or incorrect in any material respect; or
 - (ii) a Sponsor has not complied in any material respect with its covenants contained herein,

provided, that at the time of such termination, CWSI is not in material default in the performance of its obligations under this Agreement that have not been cured within five (5) Business Days of receiving Notice from the Sponsor of such default; and

- (d) the Outside Date.

5.2 Time of the Essence

Any date, time or period referred to in this Agreement shall be of the essence except to the extent to which the Parties agree in writing to vary any date, time or period, in which event the varied date, time or period shall be of the essence.

5.3 Notice and Cure Provisions

- (a) Each Party will give prompt Notice to the other of the occurrence, or failure to occur, at any time from the date hereof until the termination of this Agreement of any event or state of facts which occurrence or failure would, or would be likely to, give rise to a right of termination by the other Party pursuant to Section 5.1(b) or Section 5.1(c), as applicable. Notification provided under this Section 5.3 will not affect the representations, warranties, covenants, agreements or obligations of the Parties (or remedies with respect thereto).
- (b) The Sponsor may not exercise its right to terminate this Agreement pursuant to Section 5.1(b), and CWSI may not exercise its right to terminate this Agreement pursuant to Section 5.1(c), unless the Party or Parties seeking to terminate this Agreement delivers a written Notice to the other Party or Parties specifying in reasonable detail all breaches of covenants, representations and warranties or other matters which the Party or Parties delivering such Notice is asserting as the basis for the termination right. If any such Notice is delivered prior to the Creditors' Meeting, provided, that a Party is proceeding diligently to cure such matter and such matter is capable of being cured, no Party may exercise such

termination right until the earlier of (i) five (5) Business Days prior to such meeting, and (ii) the date that is five (5) Business Days following receipt of such Notice by the Party to whom the Notice was delivered, if such matter has not been cured by such date. If any such Notice is delivered after the date of the Creditors' Meeting, provided that a Party is proceeding diligently to cure such matter and such matter is capable of being cured, no Party may exercise such termination right until the date that is five (5) Business Days following receipt of such Notice by the Party to whom the Notice was delivered.

5.4 Effect of Termination

Upon its valid termination in accordance with Section 5.1, this Agreement shall be of no further force and effect and each Party shall be automatically and simultaneously released from its commitments, undertakings, and agreements under or related to this Agreement, provided however, that each Party shall be responsible and shall remain liable for any breach of this Agreement by such Party occurring prior to the termination of this Agreement, including from any inaccuracy in its representations and warranties and any non-performance by it of its covenants made herein.

5.5 Equitable Relief

The Parties agree that irreparable harm would occur for which money damages would not be an adequate remedy at law in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. It is accordingly agreed that the Parties shall be entitled to injunctive and other equitable relief to prevent breaches of this Agreement, and to enforce compliance with the terms of this Agreement without any requirement for the securing or posting of any bond in connection with the obtaining of any such injunctive or other equitable relief, this being in addition to any other remedy to which the Parties may be entitled at law or in equity.

5.6 Waiver; Amendment

Each Party agrees and confirms that any provision of this Agreement may be amended or waived if, and only if, such amendment or waiver is in writing and signed, in the case of an amendment, by all of the Parties or in the case of a waiver, by the Party against whom the waiver is to be effective. No waiver of any of the provisions of this Agreement will constitute a waiver of any other provision (whether or not similar), and whether occurring before or after that waiver. No waiver will be binding unless executed in writing by the Party to be bound by the waiver. A Party's failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a Party from any other or further exercise of that right or the exercise of any other right.

5.7 Conflict of Terms

In the case of a conflict between the provisions contained in the text of this Agreement and the Proposal (if approved by the Court), the terms of the Proposal shall govern.

5.8 Notices

Any Notice, consent or approval required or permitted to be given in connection with this Agreement (each, a "Notice") will be in writing, sent by email, personal delivery or courier and addressed:

- (a) if to CWSI:

Clearford Water Systems Inc.

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300-1545 Carling Avenue
Ottawa, Ontario
K1Z 8P9
Attention: Kevin Loiselle, President and CEO
Email: kloiselle@clearford.com

with a copy (which shall not constitute Notice) to:

Perley Robertson, etc.

(b) if to the Sponsor:

c/o DLA Piper (Canada) LLP
100 King Street W, Suite 6000
Toronto, ON
M5X 1E2
Email: edmond.lamek@dlapiper.com
Attention: Edmond Lamek

Any Notice is deemed to be given and received, if sent by personal delivery, courier or email, on the date of delivery of transmission, as applicable, if it is a Business Day and the delivery was made prior to 4:00 p.m. (local time in place of receipt), and otherwise on the next Business Day. A Party may change its address for service from time to time by providing a Notice in accordance with the foregoing. Any subsequent Notice must be sent to the Party at its changed address. Any element of a Party's address that is not specifically changed in a Notice will be assumed not to be changed.

5.9 Severability

If any provision of this Agreement is determined to be illegal, invalid or unenforceable by an arbitrator or any court of competent jurisdiction, that provision will be severed from this Agreement and the remaining provisions shall remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the fullest extent possible.

5.10 Successors and Assigns

The provisions of this Agreement will be binding upon and enure to the benefit of the Parties and their respective heirs, administrators, executors, legal representatives, successors and permitted assigns, as applicable; provided, that other than a Designated Assignee, no Party may assign, delegate or otherwise transfer any of its rights, interests or obligations under this Agreement without the prior written consent of the other Party. No other Person or entity shall be a third party beneficiary hereof.

5.11 Further Assurances

The Parties will, with reasonable diligence, do all reasonable things and provide all such reasonable assurances as may be required to consummate the transactions contemplated by this Agreement, and each Party will provide such further documents or instruments required by the other Party as may be reasonably necessary or desirable to effect the purpose of this Agreement and carry out its provisions.

one and the same instrument. The Parties shall be entitled to rely upon delivery of an executed facsimile or similar executed electronic copy of this Agreement, and such facsimile or similar executed electronic copy shall be legally effective to create a valid and binding agreement between the Parties.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first written above.

CLEARFORD WATER SYSTEMS INC.



By: _____
Name:
Title:

I have authority to bind the corporation

SUSTAINABLE WATER PROJECTS INC

By: _____
Name:
Title:

I have authority to bind the corporation

MOREBATH LIMITED

By: _____
Name:
Title:

I have authority to bind the corporation

LEXUS CONTINENTAL LTD.

By: _____
Name:
Title:

I have authority to bind the corporation

5.12 Counterparts

This Agreement may be executed in any number of counterparts (including counterparts by email or other means of electronic transmission) and all such counterparts taken together shall be deemed to constitute one and the same instrument. The Parties shall be entitled to rely upon delivery of an executed facsimile or similar executed electronic copy of this Agreement, and such facsimile or similar executed electronic copy shall be legally effective to create a valid and binding agreement between the Parties.

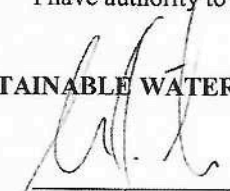
IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first written above.

CLEARFORD WATER SYSTEMS INC.

By: _____
Name:
Title:

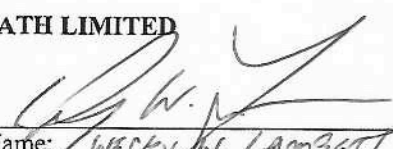
I have authority to bind the corporation

SUSTAINABLE WATER PROJECTS INC

By:  _____
Name: Martin Uloth
Title: Managing Director

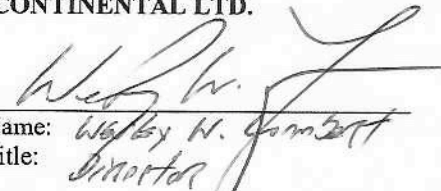
I have authority to bind the corporation

MOREBATH LIMITED

By:  _____
Name: Wesley W. Lambert
Title: Director

I have authority to bind the corporation

LEXUS CONTINENTAL LTD.

By:  _____
Name: Wesley W. Lambert
Title: Director

I have authority to bind the corporation

SCHEDULE "A"

SPONSOR SECURITY RELEASE

DATED as of [*Proposal Implementation Date*], 2022

WHEREAS Clearford Water Systems Inc. (“CWSI”) is indebted to Sustainable Water Projects Inc. (“SWP”) in respect of: (i) the loan in the principal amount of CDN\$3.25 million, owing by CWSI to SWP pursuant to the loan agreement dated November 19, 2014 originally advanced by CWP as lender on or about November 19, 2014 and assigned by CWP to SWP on or about September 30, 2016; and (ii) the loan in the principal amount of US\$1.47 million, owing by CWSI to SWP pursuant to the loan agreement dated May 19, 2016 (the “SWP Loan Agreements”), together with accrued and unpaid interest thereon (the “SWP Indebtedness”);

AND WHEREAS the SWP Loans are secured by a general security agreement dated May 19, 2016 granted by CWSI in favour of SWP (the “SWP Security”);

AND WHEREAS CWSI is indebted to Morebath Limited (“Morebath”) in respect of advances made pursuant to: (i) the Convertible Debenture and Share Pledge in the principal amount of CAD\$3,500,000 dated August 5, 2015, as amended by an Amending Agreement dated August 5, 2017 and an (undated) Amending Agreement (No. 2); (ii) the Convertible Debenture and Share Pledge in the principal amount of CAD\$1,650,000 dated May 15, 2018, as amended by an undated Amending Agreement; and (iii) the Convertible Debenture and Share Pledge in the principal amount of CAD\$500,000 dated November 5, 2018, as amended by an undated Amending Agreement (the “Morebath Debentures”), together with accrued and unpaid interest thereon (the “Morebath Indebtedness”);

AND WHEREAS the Morebath Indebtedness is secured by pledges of shares in certain subsidiary corporations owned by CWSI, granted by the terms of the Morebath Debentures (the “Morebath Share Pledges”);

AND WHEREAS CWSI is indebted to Lexus Continental Ltd. (“Lexus”, and together with SWP and Morebath, the “Sponsors”) in respect of advances made pursuant to: (i) the Convertible Debenture and Share Pledge in the principal amount of CAD\$2,975,000 dated November 1, 2017 as amended by an undated Amending Agreement, (the “Lexus Debenture” and together with the SWP Loan Agreements and the Morebath Debenture, the “Sponsor Loan Documents”), together with accrued and unpaid interest thereon (the “Lexus Indebtedness” and together with the SWP Loans and the Morebath Indebtedness, the “Sponsor Indebtedness”).

AND WHEREAS the Lexus Indebtedness is secured by a pledge of the shares Clearford Koester Canada Inc., a subsidiary corporation owned by CWSI, granted by the terms of the Lexus Debentures (the “Lexus Share Pledge”, and together with the SWP Security and the Morebath Share Pledges, the “Sponsor Security Documents”);

AND WHEREAS CWSI is in default of its obligations to the Sponsors under the Sponsor Loan Documents and the Sponsor Security Documents, as a result of which the Sponsors are in a position to enforce the Sponsor Security Documents.

AND WHEREAS, on April 28, 2022, CWSI's board of directors passed a resolution authorizing CWSI to file: (i) a Proposal to Creditors (the "Proposal"), or (ii) if deemed appropriate board of directors, a Notice of Intention to Make a Proposal ("NOI") followed within 30 days by the Proposal, with the Office of the Superintendent of Bankruptcy (Canada) pursuant to Part III of the Bankruptcy and Insolvency Act (Canada) on the next Business Day;

AND WHEREAS the Sponsors, as secured creditors of CWSI and in support of the Proposal, have entered into a Restructuring and Support Agreement (the "Support Agreement") with CWSI wherein the Sponsors have agreed to discharge and release all liens, charges encumbrances, and security interests granted by CWSI pursuant to the Sponsor Security Documents (the "Sponsor Security Interests"), and allow the SWP Indebtedness and the Morebath Indebtedness and Lexus Indebtedness to be treated as "Affected Claims" as that term is defined and used in the Proposal, all with effect on the Implementation Date.

AND WHEREAS, subject to the terms and conditions of this Agreement, the Sponsors wish to support the compromises, arrangements and transactions contemplated by the Proposal in order to effect the restructuring of the business of CWSI and to provide a superior outcome for CWSI's creditors as compared to a bankruptcy of CWSI and the enforcement of the Sponsor Security Documents.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth in the Support Agreement and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged) the Sponsors agree as follows:

1. Capitalized terms used in this Limited Release but not otherwise defined shall have the meanings assigned to such terms in the Support Agreement.
2. Pursuant to Section 3.1(b)(iii) of the Support Agreement, each Sponsor hereby agrees that, with effect and conditional upon consummation of the implementation of the Proposal by CWSI ("Implementation"), any and all Sponsor Security Interests over any present or future property, assets or undertaking of CWSI (the "Property") shall be and is hereby absolutely, automatically and unconditionally released and discharged as against the Property.
3. In furtherance of the foregoing, each Sponsor severally agrees to register all necessary Ontario *Personal Property Security Act* (and any other applicable Provincial personal property security registry) discharge statements in respect of its Sponsor Security Documents, upon Implementation.
4. For the avoidance of doubt, (a) nothing herein releases or discharges CWSI of or from any Sponsor Indebtedness and, other than the specific and limited releases of the Sponsor Security Interests herein, all Sponsor Loan Documents remains in full force and effect, save and except as may be specifically modified by the Support Agreement and/or the Proposal.

DATED as of the date first written above.

**SUSTAINABLE WATER PROJECTS
INC**

By: _____
Name:
Title:

I have authority to bind the
corporation

MOREBATH LIMITED

By: _____
Name:
Title:

I have authority to bind the
corporation

LEXUS CONTINENTAL LTD.

By: _____
Name:
Title:

I have authority to bind the
corporation

SCHEDULE "B"

CLEARFORD WATER SYSTEMS INC. - CONTINGENT VALUE NOTE

Date: _____, 2022

Up to a Maximum Principal Amount of \$45,724,582 (Canadian)

1. Preamble

Sustainable Water Projects Inc. (“SWP”), Morebath Limited (“Morebath”) and Lexus Continental Limited (“Lexus”, and together with SWP and Morebath, the “Sponsors”), each of which is a secured lender to Clearford Water Systems Inc. (“CWSI”) have offered to support a restructuring of CWSI, pursuant to a proposal to creditors (the “Proposal”) to be made by CWSI under Part III of the *Bankruptcy and Insolvency Act* (Canada) (the “Restructuring”).

As part of the Restructuring, SWP has provided CWSI with a capital contribution which will be used to pay: (i) the costs, fees and expenses which are incurred in connection with the Proposal; (ii) certain payments to certain non-lender unsecured creditors of CWSI under the Proposal, (iii) for working capital, and (iv) for other CWSI general corporate purposes. Under the terms of the Proposal, each of the Sponsors has agreed to release and discharge their security over the property of CWSI in consideration for the cancellation of the existing shares of CWSI and the issuance of new voting and non-voting common shares (collectively, “New Common Shares”) of CWSI to the Sponsors as agreed among them.

Pursuant to the Proposal, the Note Participants (as defined in the Proposal and listed on Schedule “A” to this Note), have received this Contingent Value Note (the “Contingent Value Note”) in full satisfaction of and in exchange for their Affected Claims (as defined in the Proposal) against CWSI.

2. Definitions

For all purposes of this Contingent Value Note, except as otherwise expressly provided or unless the context otherwise requires:

- (a) any accounting terms used herein and not expressly defined herein shall, except as otherwise noted, have the meanings assigned to such terms, as applicable, in accordance with generally accepted accounting principles in Canada, and the term “generally accepted accounting principles” or “GAAP” means such accounting principles as are generally accepted as they may change from time to time in Canada;
- (b) the words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Contingent Value Note as a whole and not to any particular Article, Section or other subdivision.

- (c) **“Distributable Cash Flow”** means any cash, certificates of deposit, bank deposits, commercial paper, treasury bills and other cash equivalents held or received by CWSI during a fiscal year (which for greater certainty shall exclude Transaction Proceeds), less: (i) amounts required to fund CWSI’s operating costs incurred during the fiscal year; (ii) reasonable reserves to be retained by CWSI on account of ordinary course working capital requirements; (iii) any amounts required to address any unforeseen or critical matters relating to the operations of CWSI or its subsidiaries; and (iv) the reasonable contingency funds to be retained by CWSI for extraordinary and discretionary items, all (i) to (iv) as determined by the board of directors of CWSI.
- (d) **“CWSI Sale or Merger”** shall mean the completion of any transaction or series of any related transactions with an arm’s-length party involving (i) a sale, amalgamation, merger, plan of arrangement, reorganization, consolidation or other business combination involving all or substantially all of the New Common Shares (as defined in the Proposal) of CWSI;
- (e) **“Holders”** means the Priority Holders and the Subordinate Holders, and **“Holder”** means any one of them;
- (f) **“Priority Holder Claims”** means the claims of the Priority Holders hereunder in the amounts of \$7,442,276 and \$3,697,268 respectively, set out in Schedule “A” hereto;
- (g) **“Priority Holders”** means Morebath and Lexus;
- (h) **“Subordinate Holder Claims”** means the claims of Subordinate Holders, more particularly set out in Schedule A hereto;
- (i) **“Subordinate Holders”** means Sustainable Water Projects Inc., SW Everett Inc., Clearford Koester Canada Inc., Clearford Finance Corporation and Clearford Water Utility (Ontario) Inc.;
- (j) **“Sponsor Transaction Proceeds”** includes the sum of all consideration paid to or received by the Sponsors in their capacities as holders of New Common Shares, resulting from a CWSI Sale or Merger, including but not limited to cash, securities, options or rights, property, interest, benefits and contingent consideration received and/or obligations assumed or forgiven in connection with a CWSI Sale or Merger, less applicable commissions, expenses, fees and applicable taxes (including, without limitation, income taxes paid or payable in the event of an asset sale). Any Sponsor Transaction Proceeds due to Holders hereunder as a result of any contingent amounts (whether earn-outs or other deferred purchase price, including, without limitation, escrowed amounts) shall be paid as and when such amounts are actually received by the Sponsors. Any share or other non-monetary consideration shall be determined at its estimated fair market value at closing.
- (k) **“Subsidiary Sale or Merger”** shall mean the completion of any transaction or series of any related transactions with an arm’s-length party involving (i) a sale,

amalgamation, merger, plan of arrangement, reorganization, consolidation or other business combination involving all or substantially all of the shares of Clearford Water Works Inc. (“**CWW**”) and/or the shares of UV Pure Technologies Inc. (“**UV Pure**”) (b) a sale of all or substantially all of the assets or undertaking of CWW and/or UV Pure.

- (l) “**Subsidiary Transaction Proceeds**” includes the sum of all consideration paid to or received by CWSI resulting from a Subsidiary Sale or Merger, including but not limited to cash, securities, options or rights, property, interest, benefits and contingent consideration received and/or obligations assumed or forgiven, less applicable commissions, expenses, fees and applicable taxes (including, without limitation, income taxes paid or payable in the event of an asset sale). Any Subsidiary Transaction Proceeds due as a result of any contingent amounts (whether earn-outs or other deferred purchase price, including, without limitation, escrowed amounts) shall be paid as and when such amounts are actually received by CWSI. Any share or other non-monetary consideration shall be assessed at its estimated fair market value at closing.
- (m) “**Transaction Proceeds**” means the Sponsor Transaction Proceeds or the Subsidiary Transaction proceeds, as applicable.

3. **Maximum Principal Amount and Payment**

- (a) FOR VALUE RECEIVED, **CWSI** unconditionally promises to pay to each of the Priority Holders set forth in Schedule “A” attached hereto, or their successors and permitted assigns, on a pro rata basis based on the interests set forth in Schedule “A” less the Superintendent’s Levy (as defined in Section 20), the Principal Amount (as defined in Section 4) up to a maximum principal amount of ELEVEN MILLION, ONE HUNDRED AND THIRTY NINE THOUSAND, FIVE HUNDRED AND FORTY FOUR DOLLARS (\$11,139,544) (the “**Priority Principal Amount**”).

Any and all payments made by CWSI to any of the Priority Holders on account of the Priority Principal Amount hereunder shall be made contemporaneously and *pro rata* to all Priority Holders without preference or priority of any nature to any one or more Priority Holders. The interest of each Priority Holder in this Contingent Value Note shall rank rateably and *pari-passu* in all respects with the interest of each other Priority Holder herein, and in priority in right of payment to all Subordinate Holders.

- (b) FOR VALUE RECEIVED, and conditional upon the Priority Principal Amount having been paid to Priority Holders in full, **CWSI** unconditionally promises to pay to each of the Subordinate Holders set forth in Schedule “A” attached hereto, or their successors and permitted assigns, on a pro rata basis based on the interests set forth in Schedule “A”, the Principal Amount (as defined in Section 4) up to a maximum principal amount of THIRTY FOUR MILLION, FIVE HUNDRED AND EIGHTY FIVE THOUSAND, AND THIRTY EIGHT DOLLARS

(\$34,585,038) (the “**Subordinate Principal Amount**” and together with the Priority Principal Amount, the “**Maximum Principal Amount**”).

Any and all payments made by CWSI to any of the Subordinate Holders on account of the Subordinate Principal Amount hereunder shall be made contemporaneously and *pro rata* to all Subordinate Holders without preference or priority of any nature to any one or more Subordinate Holders. The interest of each Subordinate Holder in this Contingent Value Note shall rank rateably and *pari-passu* in all respects with the interest of each other Subordinate Holder herein, and subordinate in right of payment to all Priority Holders.

4. **Contingent Consideration**

(i) The Principal Amount (as defined below) payable to Holders shall be equal to the sum of:

- (a) One Hundred Percent (100%) of annual Distributable Cash Flow of CWSI, if any, in any fiscal year for the period commencing on January 1, 2023 and ending on the earlier of (i) December 31, 2033 and (ii) a CWSI Sale or Merger (the “**Annual Revenue**”), payable by CWSI annually, no later than 60 days following the issuance of CWSI’s financial statements for the prior fiscal year;
- (b) Subject to subsection 4(ii), one hundred percent (100%) of any Subsidiary Transaction Proceeds, payable by CWSI within 60 days of receipt of the Subsidiary Transaction Proceeds; and
- (c) Subject to subsection 4(ii), one hundred percent (100%) of Sponsor Transaction Proceeds, payable by the Sponsors under Section 15 hereof within 60 days of receipt of the Sponsor Transaction Proceeds.

(collectively the “**Holder Payments**”)

BUT, under no circumstances shall the aggregate Holder Payments exceed the Maximum Principal Amount (the actual amount(s) owing to the Holders under (a) (b) and (c) shall be referred to herein as the “**Principal Amount**”).

(ii) The Principal Amount hereunder shall be satisfied in full and this Contingent Value Note shall be cancelled, upon receipt by Holders of the Holder Payments under Section 4(i) triggered by the earliest to occur of:

- (a) a CWSI Sale or Merger prior to the occurrence of a Subsidiary Sale or Merger;
- (b) the second Subsidiary Sale or Merger; or
- (c) a CWSI Sale or Merger following one Subsidiary Sale or Merger.

5. **Interest**

No interest shall be payable by CWSI on the Principal Amount. In the Event of Default, interest shall be payable at the rate of twelve percent (12%) per annum calculated and compounded monthly not in advance, computed from the date of the Event of Default and payable by CWSI to Holders quarterly.

6. **Place of Payment**

Payments hereunder shall be made to each Holder and to the Receiver General in respect of the Superintendent's Levy, in lawful money of Canada at the respective address set forth on Schedule "A" hereto, or at such other address as may be designated by that Holder in writing.

7. **Transfer**

Neither this Contingent Value Note nor any Interest of any Holder herein may be sold, assigned, pledged, encumbered or in any manner transferred or disposed of, in whole or in part, without the prior written consent of CWSI's board of directors, except to another Holder, upon written notice to CWSI and the Holder Representative.

The Holder understands that there is not currently, nor is it anticipated that there will be any public market for the Contingent Value Note Interests, and it may not be possible for the Holder to resell or transfer its participation Interest in this Contingent Value Note.

8. **Events of Default**

The occurrence of any of the following events will constitute a default under this Contingent Value Note (in each case an "**Event of Default**"):

- (a) CWSI defaults in payment of all or any part of the Principal Amount when the same becomes due under any provision hereof that is not otherwise cured within 30 days following receipt of notice of such default;
- (b) CWSI makes assignment for the benefit of creditors, files a Notice of Intention to Make a Proposal or files a Proposal under the *Bankruptcy and Insolvency Act* (Canada), makes or is subject to an application under the *Companies' Creditors Arrangement Act* (Canada), a bankruptcy order is made against CWSI, or a receiver is appointed over all or substantially all of the property of CWSI;
- (c) If an encumbrancer shall take possession of all or substantially all of the property of CWSI, or if a distress or execution or similar process be levied or enforced thereagainst and is not removed within 30 days;
- (d) CWSI defaults in the performance of observance of any material covenants or conditions contained herein that is not otherwise cured within 30 days following receipt of notice of such default.

CWSI shall provide written notice to the Holders forthwith after the occurrence of an Event of Default.

9. **Consequences of an Event of Default**

Upon the occurrence of an Event of Default, the Holder Representative, on behalf of the Holders, may in its discretion give notice to CWSI identifying such Event of Default and declaring that the portion of the Principal Amount owing (whether or not due and payable) as of the date of the Event of Default under this Contingent Value Note, if any, shall be due and payable and the same shall forthwith become immediately due and payable to the Holders in accordance with the priorities set out herein, and CWSI shall forthwith pay to the Holders, in accordance with the priorities set out herein, the Principal Amount owing, if any, as of the date of the Event of Default.

10. **No Security Provided**

This Contingent Value Note shall represent; (i) an unsecured obligation of CWSI, and (ii) the several (and not joint) unsecured covenants and obligations of the Sponsors under Section 15.

11. **Reporting**

CWSI shall provide the Holders with a written report as of June 30th and December 31st of each year, delivered to the Holders within 30 days of such date, during the period commencing on January 1, 2023 and ending on the earlier of December 31, 2033 and a CWSI Sale or Merger, setting out the Distributable Cash Flow, if any, prepared consistently from year-to year, for the immediately prior six (6) month period. The first report shall be delivered no later than July 30, 2023 for the period ending June 30, 2023.

The Holder Representative, on behalf of any Holder, shall have the right, exercisable upon written notice to CWSI at any time prior to June 30, 2034 (the “**Review Notice**”) to appoint an independent accountant (the “**Accountant**”) to review the calculation (the “**Review**”) of the cumulative unaudited Distributable Cash Flow of CWSI, if any, calculated in accordance the terms hereof, for the five year fiscal period commencing on January 1, 2023 and ending on December 31, 2033 (the “**Total Cumulative Revenue**”). CWSI hereby agrees to provide access to its books and records and all reasonable access to its personnel to enable the Accountant to conduct the Review. It is understood that the results of the Review shall be confidential to the Holders. The Holders shall be responsible for the cost of such Review, which amount will be deducted from the Principal Amount payable to Holders, if any, except in the case where the Review results reveal that the Total Cumulative Revenue earned by CWSI was understated by 5% or more, in which case, all fees associated with the Review shall be borne by CWSI.

12. **Notice**

Any notice or written communication given pursuant to or in connection with this Contingent Value Note shall be in writing and shall be given by delivering the same personally or by prepaid courier, prepaid registered mail, or email, addressed to the party to be notified at the address of such party set out herein or at such other address of which such party has given notice to the other party hereto.

13. **Holder Representative**

- (a) MARTIN KLÖCK is hereby appointed the initial holder representative (the “**Holder Representative**”) and undertakes to perform such duties and only such duties as are specifically set forth in this Contingent Value Note, and no implied covenants or obligations shall be read into this Contingent Value Note against the Holder Representative.
- (b) The Holder Representative shall be authorized and protected and shall not have any liability for, or in respect of any actions taken, suffered or omitted to be taken by it in connection with its acceptance and administration of this Contingent Value Note and the exercise and performance of its duties hereunder, except to the extent of its own willful misconduct, bad faith or gross negligence (each as determined by a final, non-appealable judgment of a court of competent jurisdiction). No provision of this Contingent Value Note shall require the Holder Representative to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers.
- (c) The Holder Representative may resign and be discharged from its duties at any time by giving written notice thereof to CWSI of the date when such resignation shall take effect, which notice shall be sent at least 30 days before the date so specified. If the Holder Representative shall resign, be removed or become incapable of acting, the Majority Holders (as defined below) shall promptly appoint by written instrument signed by the Majority Holders a qualified successor Holder Representative who shall be a Holder and provide written notice thereof to CWSI. Any Holder Representative may be removed at any time by written instrument signed by the Majority Holders and upon written notice to CWSI.
- (d) For purpose hereof, the term “**Majority Holders**” shall mean: (i), at any time that any portion of the Priority Principal Amount remains outstanding, Morebath, Lexus and Subordinate Holders holding at least two-thirds in value of Subordinate Holder Claims; and (ii) at any time after the Priority Principal Amount has been paid in full, Subordinate Holders then holding at least two-thirds in value of Subordinate Holder Claims.

14. **Amendments with Consent of Holder Representative or Holders.**

- (a) The Holder Representative, when authorized by written instrument signed by the Majority Holders, may enter into one or more amendments hereto for the purpose of adding, eliminating or changing any provisions of this Contingent Value Note, even if such addition, elimination or change is in any way adverse to the interests of the Holders and/or to the interests of the Holder Representative provided that such amendment is signed by CWSI, the Holder Representative and each of the Sponsors (which for greater certainty, must consent to such amendment in writing). Notwithstanding the foregoing, none of paragraphs 3(a), 13(d) or 14(a) hereof may

be amended or deleted without the written authorization of all Holders then holding an Interest herein.

- (b) Promptly after the execution by CWSI, the Sponsors and the Holder Representative of any amendment, CWSI shall email a notice thereof by first-class mail to the Holders at the respective email addresses forth on Schedule "A" hereto, setting forth in general terms the substance of such amendment.
- (c) Upon the execution of any amendment under this Section 14, this Contingent Value Note shall be modified in accordance therewith, such amendment shall form a part of this Contingent Value Note for all purposes and the Holder Representative and every Holder shall be bound thereby.

15. **Sponsor Obligations**

In the event of a CWSI Sale or Merger involving the New Common Shares of CWSI resulting in SWP, Morebath or Lexus directly receiving Sponsor Transaction Proceeds, each of SWP, Morebath and Lexus severally hereby unconditionally covenants in favour of the Holders to pay its proportionate share of the Sponsor Transaction Proceeds actually received by it, in accordance with sections 3(a) or (b) as applicable, and 4(c) hereof. For greater certainty, no Sponsor is guaranteeing the obligations of any other Sponsor hereunder.

This covenant provided by the Sponsors shall be continuing, unconditional and irrevocable. Without limiting the generality of the foregoing, the obligations of the Sponsors hereunder shall not be released, discharged, impaired or effected by any extensions of time or indulgences or modifications granted by the Holder Representative, to enforce any of the terms or provisions of this Contingent Value Note, or by any other act or thing which under the law relating to guarantors or sureties might, but for this provision, have the effect of so releasing, relieving or discharging a guarantor, and each Sponsor hereby waives any right to require the Holder Representative, on behalf of the Holders, to exhaust any action or recourse against CWSI before requiring performance by any Sponsor pursuant to this section.

16. **Superintendent of Bankruptcy Fee**

The payment of the Priority Principal Amount to Priority Holders on the applicable Payment Date(s) shall be subject to the right of the Superintendent of Bankruptcy Canada (the "**Superintendent**") to receive payment on account of its statutory levy pursuant to sections 60(3), (4) and 147 of the *Bankruptcy and Insolvency Act* (Canada). The Superintendent's levy payment amount shall be calculated as the lesser of (the "**Superintendent's Levy**"):

- (a) 5% of the first up to \$1 million of Priority Holder payments to be paid from time to time hereunder by CWSI to Priority Holders, and 1.25% of any amounts between \$1 million and \$2 million of Priority Holder payments paid by CWSI to Priority Holders from time to time hereunder; and
- (b) the dollar amount obtained by subtracting from \$62,500: (i) the aggregate dollar amount of all levy payments made to the Superintendent in respect of distributions

made under the Proposal, and (ii) any payments previously made under section (a) above.

17. **General Provisions**

- (a) Unless otherwise stated, all dollar amounts referred to in this Contingent Value Note shall be in Canadian funds.
- (b) In the event that the Payment Date shall not be a business day, then, notwithstanding any provision of this Contingent Value Note to the contrary, any payment required to be made in respect of the Contingent Value Note on such date need not be made on such date, but may be made on the next succeeding business day with the same force and effect as if made on the Payment Date.
- (c) Each of the provisions contained in this Contingent Value Note is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof.
- (d) This agreement represents the entire understanding of the parties hereto with reference to the Contingent Value Note and supersedes any and all other oral or written agreements made with respect to the Contingent Value Note.
- (e) This Contingent Value Note shall be governed by, and construed in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein (other than the conflict of laws rules).
- (f) Each Holder, CWSI and the Holder Representative hereby submits to the non-exclusive jurisdiction of the courts of the Province of Ontario in respect of any dispute arising under this Contingent Value Note.
- (g) In this Contingent Value Note, words importing the singular number only shall include the plural and vice versa, and words importing gender shall include all genders.
- (h) This Contingent Value Note shall be binding on CWSI and its successors and shall enure to the benefit of the Holders and their successors and assigns.
- (i) This Contingent Value Note may be signed in any number of counterparts (which may be effectively delivered by facsimile or other electronic means), each of which shall be deemed to constitute but one and the same instrument.

18. **Acknowledgments**

CWSI WAIVES PRESENTMENT FOR PAYMENT, NOTICE OF NON-PAYMENT, PROTEST AND NOTICE OF PROTEST OF THIS CONTINGENT VALUE NOTE AND WAIVES EVERY DEFENSE BASED UPON ANY OR ALL INDULGENCES AND FORBEARANCES WHICH MAY BE GRANTED BY THE HOLDERS TO ANY PARTY LIABLE HEREON. THE

HOLDER REPRESENTATIVE, ON BEHALF OF THE HOLDERS, ACKNOWLEDGES RECEIPT OF A TRUE COPY OF THIS CONTINGENT VALUE NOTE.

IN WITNESS WHEREOF CWSI has executed this Contingent Value Note as of the date first above written above.

CLEARFORD WATER SYSTEMS INC.

Per: _____ c/s
Kevin Loiseau, President and
Chief Executive Officer

We hereby agree to be bound to those terms and conditions of the Contingent Value Note that apply to the Sponsors:

**SUSTAINABLE WATER PROJECTS
INC.**

Per: _____ c/s
Authorized Signing Officer

MOREBATH LIMITED

Per: _____ c/s
Authorized Signing Officer

LEXUS CONTINENTAL LTD.

Per: _____ c/s
Authorized Signing Officer

MARTIN KLÖCK hereby consents to act as the Holder Representative in accordance with the terms of this Contingent Value Note.

MARTIN KLÖCK

_____1/s

Schedule "A"
Holders and Interests

	Claim Amount		Registered Address
PRIORITY HOLDERS			
Morebath Limited	\$7,442,276.00	66.81%	
Lexus Continental Ltd.	\$3,697,268.00	33.19%	
TOTAL PRIORITY:	\$11,139,544.00	100%	
SUBORDINATE HOLDERS			
Sustainable Water Projects Inc.	\$5,349,728.00	15.26%	
SW Everett	\$4,476,457.00	12.77%	
Clearford Koester Canada Inc.	\$16,400,317.00	46.77%	
Clearford Water Utility (Ontario) Inc.	\$1,011,797.00	2.89%	
Clearford Financial Corporation	\$7,828,026.00	22.32%	
TOTAL SUBORDINATE:	\$34,585,038.00	100.0%	

Note: Payments of Principal Amount hereunder shall have the Superintendent's Levy amount (if applicable) deducted therefrom in accordance with paragraph 16 hereof.

SCHEDULE "C"

CLEARFORD WATER SYSTEMS INC. - CONTINGENT VALUE NOTE

Date: _____, 2022

Up to a Maximum Principal Amount of \$45,724,582 (Canadian)

1. Preamble

Sustainable Water Projects Inc. (“SWP”), Morebath Limited (“Morebath”) and Lexus Continental Limited (“Lexus”, and together with SWP and Morebath, the “Sponsors”), each of which is a secured lender to Clearford Water Systems Inc. (“CWSI”) have offered to support a restructuring of CWSI, pursuant to a proposal to creditors (the “Proposal”) to be made by CWSI under Part III of the *Bankruptcy and Insolvency Act* (Canada) (the “Restructuring”).

As part of the Restructuring, SWP has provided CWSI with a capital contribution which will be used to pay: (i) the costs, fees and expenses which are incurred in connection with the Proposal; (ii) certain payments to certain non-lender unsecured creditors of CWSI under the Proposal, (iii) for working capital, and (iv) for other CWSI general corporate purposes. Under the terms of the Proposal, each of the Sponsors has agreed to release and discharge their security over the property of CWSI in consideration for the cancellation of the existing shares of CWSI and the issuance of new voting and non-voting common shares (collectively, “New Common Shares”) of CWSI to the Sponsors as agreed among them.

Pursuant to the Proposal, the Note Participants (as defined in the Proposal and listed on **Schedule “A”** to this Note), have received this Contingent Value Note (the “Contingent Value Note”) in full satisfaction of and in exchange for their Affected Claims (as defined in the Proposal) against CWSI.

2. Definitions

For all purposes of this Contingent Value Note, except as otherwise expressly provided or unless the context otherwise requires:

- (a) any accounting terms used herein and not expressly defined herein shall, except as otherwise noted, have the meanings assigned to such terms, as applicable, in accordance with generally accepted accounting principles in Canada, and the term “generally accepted accounting principles” or “GAAP” means such accounting principles as are generally accepted as they may change from time to time in Canada;
- (b) the words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Contingent Value Note as a whole and not to any particular Article, Section or other subdivision.

- (c) **“Distributable Cash Flow”** means any cash, certificates of deposit, bank deposits, commercial paper, treasury bills and other cash equivalents held or received by CWSI during a fiscal year (which for greater certainty shall exclude Transaction Proceeds), less: (i) amounts required to fund CWSI’s operating costs incurred during the fiscal year; (ii) reasonable reserves to be retained by CWSI on account of ordinary course working capital requirements; (iii) any amounts required to address any unforeseen or critical matters relating to the operations of CWSI or its subsidiaries; and (iv) the reasonable contingency funds to be retained by CWSI for extraordinary and discretionary items, all (i) to (iv) as determined by the board of directors of CWSI.
- (d) **“CWSI Sale or Merger”** shall mean the completion of any transaction or series of any related transactions with an arm’s-length party involving (i) a sale, amalgamation, merger, plan of arrangement, reorganization, consolidation or other business combination involving all or substantially all of the New Common Shares (as defined in the Proposal) of CWSI;
- (e) **“Holders”** means the Priority Holders and the Subordinate Holders, and **“Holder”** means any one of them;
- (f) **“Priority Holder Claims”** means the claims of the Priority Holders hereunder in the amounts of \$7,442,276 and \$3,697,268 respectively, set out in Schedule “A” hereto;
- (g) **“Priority Holders”** means Morebath and Lexus;
- (h) **“Subordinate Holder Claims”** means the claims of Subordinate Holders, more particularly set out in Schedule A hereto;
- (i) **“Subordinate Holders”** means Sustainable Water Projects Inc., SW Everett Inc., Clearford Koester Canada Inc., Clearford Finance Corporation and Clearford Water Utility (Ontario) Inc.;
- (j) **“Sponsor Transaction Proceeds”** includes the sum of all consideration paid to or received by the Sponsors in their capacities as holders of New Common Shares, resulting from a CWSI Sale or Merger, including but not limited to cash, securities, options or rights, property, interest, benefits and contingent consideration received and/or obligations assumed or forgiven in connection with a CWSI Sale or Merger, less applicable commissions, expenses, fees and applicable taxes (including, without limitation, income taxes paid or payable in the event of an asset sale). Any Sponsor Transaction Proceeds due to Holders hereunder as a result of any contingent amounts (whether earn-outs or other deferred purchase price, including, without limitation, escrowed amounts) shall be paid as and when such amounts are actually received by the Sponsors. Any share or other non-monetary consideration shall be determined at its estimated fair market value at closing.
- (k) **“Subsidiary Sale or Merger”** shall mean the completion of any transaction or series of any related transactions with an arm’s-length party involving (i) a sale,

amalgamation, merger, plan of arrangement, reorganization, consolidation or other business combination involving all or substantially all of the shares of Clearford Water Works Inc. (“**CWW**”) and/or the shares of UV Pure Technologies Inc. (“**UV Pure**”) (b) a sale of all or substantially all of the assets or undertaking of CWW and/or UV Pure.

- (l) “**Subsidiary Transaction Proceeds**” includes the sum of all consideration paid to or received by CWSI resulting from a Subsidiary Sale or Merger, including but not limited to cash, securities, options or rights, property, interest, benefits and contingent consideration received and/or obligations assumed or forgiven, less applicable commissions, expenses, fees and applicable taxes (including, without limitation, income taxes paid or payable in the event of an asset sale). Any Subsidiary Transaction Proceeds due as a result of any contingent amounts (whether earn-outs or other deferred purchase price, including, without limitation, escrowed amounts) shall be paid as and when such amounts are actually received by CWSI. Any share or other non-monetary consideration shall be assessed at its estimated fair market value at closing.
- (m) “**Transaction Proceeds**” means the Sponsor Transaction Proceeds or the Subsidiary Transaction proceeds, as applicable.

3. **Maximum Principal Amount and Payment**

- (a) FOR VALUE RECEIVED, **CWSI** unconditionally promises to pay to each of the Priority Holders set forth in Schedule “A” attached hereto, or their successors and permitted assigns, on a pro rata basis based on the interests set forth in Schedule “A” less the Superintendent’s Levy (as defined in Section 20), the Principal Amount (as defined in Section 4) up to a maximum principal amount of ELEVEN MILLION, ONE HUNDRED AND THIRTY NINE THOUSAND, FIVE HUNDRED AND FORTY FOUR DOLLARS (\$11,139,544) (the “**Priority Principal Amount**”).

Any and all payments made by CWSI to any of the Priority Holders on account of the Priority Principal Amount hereunder shall be made contemporaneously and *pro rata* to all Priority Holders without preference or priority of any nature to any one or more Priority Holders. The interest of each Priority Holder in this Contingent Value Note shall rank rateably and *pari-passu* in all respects with the interest of each other Priority Holder herein, and in priority in right of payment to all Subordinate Holders.

- (b) FOR VALUE RECEIVED, and conditional upon the Priority Principal Amount having been paid to Priority Holders in full, **CWSI** unconditionally promises to pay to each of the Subordinate Holders set forth in Schedule “A” attached hereto, or their successors and permitted assigns, on a pro rata basis based on the interests set forth in Schedule “A”, the Principal Amount (as defined in Section 4) up to a maximum principal amount of THIRTY FOUR MILLION, FIVE HUNDRED AND EIGHTY FIVE THOUSAND, AND THIRTY EIGHT DOLLARS

(\$34,585,038) (the “**Subordinate Principal Amount**” and together with the Priority Principal Amount, the “**Maximum Principal Amount**”).

Any and all payments made by CWSI to any of the Subordinate Holders on account of the Subordinate Principal Amount hereunder shall be made contemporaneously and *pro rata* to all Subordinate Holders without preference or priority of any nature to any one or more Subordinate Holders. The interest of each Subordinate Holder in this Contingent Value Note shall rank rateably and *pari-passu* in all respects with the interest of each other Subordinate Holder herein, and subordinate in right of payment to all Priority Holders.

4. **Contingent Consideration**

(i) The Principal Amount (as defined below) payable to Holders shall be equal to the sum of:

- (a) One Hundred Percent (100%) of annual Distributable Cash Flow of CWSI, if any, in any fiscal year for the period commencing on January 1, 2023 and ending on the earlier of (i) December 31, 2033 and (ii) a CWSI Sale or Merger (the “**Annual Revenue**”), payable by CWSI annually, no later than 60 days following the issuance of CWSI’s financial statements for the prior fiscal year;
- (b) Subject to subsection 4(ii), one hundred percent (100%) of any Subsidiary Transaction Proceeds, payable by CWSI within 60 days of receipt of the Subsidiary Transaction Proceeds; and
- (c) Subject to subsection 4(ii), one hundred percent (100%) of Sponsor Transaction Proceeds, payable by the Sponsors under Section 15 hereof within 60 days of receipt of the Sponsor Transaction Proceeds.

(collectively the “**Holder Payments**”)

BUT, under no circumstances shall the aggregate Holder Payments exceed the Maximum Principal Amount (the actual amount(s) owing to the Holders under (a) (b) and (c) shall be referred to herein as the “**Principal Amount**”).

(ii) The Principal Amount hereunder shall be satisfied in full and this Contingent Value Note shall be cancelled, upon receipt by Holders of the Holder Payments under Section 4(i) triggered by the earliest to occur of:

- (a) a CWSI Sale or Merger prior to the occurrence of a Subsidiary Sale or Merger;
- (b) the second Subsidiary Sale or Merger; or
- (c) a CWSI Sale or Merger following one Subsidiary Sale or Merger.

5. **Interest**

No interest shall be payable by CWSI on the Principal Amount. In the Event of Default, interest shall be payable at the rate of twelve percent (12%) per annum calculated and compounded monthly not in advance, computed from the date of the Event of Default and payable by CWSI to Holders quarterly.

6. **Place of Payment**

Payments hereunder shall be made to each Holder and to the Receiver General in respect of the Superintendent's Levy, in lawful money of Canada at the respective address set forth on Schedule "A" hereto, or at such other address as may be designated by that Holder in writing.

7. **Transfer**

Neither this Contingent Value Note nor any Interest of any Holder herein may be sold, assigned, pledged, encumbered or in any manner transferred or disposed of, in whole or in part, without the prior written consent of CWSI's board of directors, except to another Holder, upon written notice to CWSI and the Holder Representative.

The Holder understands that there is not currently, nor is it anticipated that there will be any public market for the Contingent Value Note Interests, and it may not be possible for the Holder to resell or transfer its participation Interest in this Contingent Value Note.

8. **Events of Default**

The occurrence of any of the following events will constitute a default under this Contingent Value Note (in each case an "**Event of Default**"):

- (a) CWSI defaults in payment of all or any part of the Principal Amount when the same becomes due under any provision hereof that is not otherwise cured within 30 days following receipt of notice of such default;
- (b) CWSI makes assignment for the benefit of creditors, files a Notice of Intention to Make a Proposal or files a Proposal under the *Bankruptcy and Insolvency Act* (Canada), makes or is subject to an application under the *Companies' Creditors Arrangement Act* (Canada), a bankruptcy order is made against CWSI, or a receiver is appointed over all or substantially all of the property of CWSI;
- (c) If an encumbrancer shall take possession of all or substantially all of the property of CWSI, or if a distress or execution or similar process be levied or enforced thereagainst and is not removed within 30 days;
- (d) CWSI defaults in the performance of observance of any material covenants or conditions contained herein that is not otherwise cured within 30 days following receipt of notice of such default.

CWSI shall provide written notice to the Holders forthwith after the occurrence of an Event of Default.

9. **Consequences of an Event of Default**

Upon the occurrence of an Event of Default, the Holder Representative, on behalf of the Holders, may in its discretion give notice to CWSI identifying such Event of Default and declaring that the portion of the Principal Amount owing (whether or not due and payable) as of the date of the Event of Default under this Contingent Value Note, if any, shall be due and payable and the same shall forthwith become immediately due and payable to the Holders in accordance with the priorities set out herein, and CWSI shall forthwith pay to the Holders, in accordance with the priorities set out herein, the Principal Amount owing, if any, as of the date of the Event of Default.

10. **No Security Provided**

This Contingent Value Note shall represent; (i) an unsecured obligation of CWSI, and (ii) the several (and not joint) unsecured covenants and obligations of the Sponsors under Section 15.

11. **Reporting**

CWSI shall provide the Holders with a written report as of June 30th and December 31st of each year, delivered to the Holders within 30 days of such date, during the period commencing on January 1, 2023 and ending on the earlier of December 31, 2033 and a CWSI Sale or Merger, setting out the Distributable Cash Flow, if any, prepared consistently from year-to year, for the immediately prior six (6) month period. The first report shall be delivered no later than July 30, 2023 for the period ending June 30, 2023.

The Holder Representative, on behalf of any Holder, shall have the right, exercisable upon written notice to CWSI at any time prior to June 30, 2034 (the “**Review Notice**”) to appoint an independent accountant (the “**Accountant**”) to review the calculation (the “**Review**”) of the cumulative unaudited Distributable Cash Flow of CWSI, if any, calculated in accordance the terms hereof, for the five year fiscal period commencing on January 1, 2023 and ending on December 31, 2033 (the “**Total Cumulative Revenue**”). CWSI hereby agrees to provide access to its books and records and all reasonable access to its personnel to enable the Accountant to conduct the Review. It is understood that the results of the Review shall be confidential to the Holders. The Holders shall be responsible for the cost of such Review, which amount will be deducted from the Principal Amount payable to Holders, if any, except in the case where the Review results reveal that the Total Cumulative Revenue earned by CWSI was understated by 5% or more, in which case, all fees associated with the Review shall be borne by CWSI.

12. **Notice**

Any notice or written communication given pursuant to or in connection with this Contingent Value Note shall be in writing and shall be given by delivering the same personally or by prepaid courier, prepaid registered mail, or email, addressed to the party to be notified at the address of such party set out herein or at such other address of which such party has given notice to the other party hereto.

13. **Holder Representative**

- (a) MARTIN KLÖCK is hereby appointed the initial holder representative (the “**Holder Representative**”) and undertakes to perform such duties and only such duties as are specifically set forth in this Contingent Value Note, and no implied covenants or obligations shall be read into this Contingent Value Note against the Holder Representative.
- (b) The Holder Representative shall be authorized and protected and shall not have any liability for, or in respect of any actions taken, suffered or omitted to be taken by it in connection with its acceptance and administration of this Contingent Value Note and the exercise and performance of its duties hereunder, except to the extent of its own willful misconduct, bad faith or gross negligence (each as determined by a final, non-appealable judgment of a court of competent jurisdiction). No provision of this Contingent Value Note shall require the Holder Representative to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers.
- (c) The Holder Representative may resign and be discharged from its duties at any time by giving written notice thereof to CWSI of the date when such resignation shall take effect, which notice shall be sent at least 30 days before the date so specified. If the Holder Representative shall resign, be removed or become incapable of acting, the Majority Holders (as defined below) shall promptly appoint by written instrument signed by the Majority Holders a qualified successor Holder Representative who shall be a Holder and provide written notice thereof to CWSI. Any Holder Representative may be removed at any time by written instrument signed by the Majority Holders and upon written notice to CWSI.
- (d) For purpose hereof, the term “**Majority Holders**” shall mean: (i), at any time that any portion of the Priority Principal Amount remains outstanding, Morebath, Lexus and Subordinate Holders holding at least two-thirds in value of Subordinate Holder Claims; and (ii) at any time after the Priority Principal Amount has been paid in full, Subordinate Holders then holding at least two-thirds in value of Subordinate Holder Claims.

14. **Amendments with Consent of Holder Representative or Holders.**

- (a) The Holder Representative, when authorized by written instrument signed by the Majority Holders, may enter into one or more amendments hereto for the purpose of adding, eliminating or changing any provisions of this Contingent Value Note, even if such addition, elimination or change is in any way adverse to the interests of the Holders and/or to the interests of the Holder Representative provided that such amendment is signed by CWSI, the Holder Representative and each of the Sponsors (which for greater certainty, must consent to such amendment in writing). Notwithstanding the foregoing, none of paragraphs 3(a), 13(d) or 14(a) hereof may

be amended or deleted without the written authorization of all Holders then holding an Interest herein.

- (b) Promptly after the execution by CWSI, the Sponsors and the Holder Representative of any amendment, CWSI shall email a notice thereof by first-class mail to the Holders at the respective email addresses forth on Schedule "A" hereto, setting forth in general terms the substance of such amendment.
- (c) Upon the execution of any amendment under this Section 14, this Contingent Value Note shall be modified in accordance therewith, such amendment shall form a part of this Contingent Value Note for all purposes and the Holder Representative and every Holder shall be bound thereby.

15. **Sponsor Obligations**

In the event of a CWSI Sale or Merger involving the New Common Shares of CWSI resulting in SWP, Morebath or Lexus directly receiving Sponsor Transaction Proceeds, each of SWP, Morebath and Lexus severally hereby unconditionally covenants in favour of the Holders to pay its proportionate share of the Sponsor Transaction Proceeds actually received by it, in accordance with sections 3(a) or (b) as applicable, and 4(c) hereof. For greater certainty, no Sponsor is guaranteeing the obligations of any other Sponsor hereunder.

This covenant provided by the Sponsors shall be continuing, unconditional and irrevocable. Without limiting the generality of the foregoing, the obligations of the Sponsors hereunder shall not be released, discharged, impaired or effected by any extensions of time or indulgences or modifications granted by the Holder Representative, to enforce any of the terms or provisions of this Contingent Value Note, or by any other act or thing which under the law relating to guarantors or sureties might, but for this provision, have the effect of so releasing, relieving or discharging a guarantor, and each Sponsor hereby waives any right to require the Holder Representative, on behalf of the Holders, to exhaust any action or recourse against CWSI before requiring performance by any Sponsor pursuant to this section.

16. **Superintendent of Bankruptcy Fee**

The payment of the Priority Principal Amount to Priority Holders on the applicable Payment Date(s) shall be subject to the right of the Superintendent of Bankruptcy Canada (the "**Superintendent**") to receive payment on account of its statutory levy pursuant to sections 60(3), (4) and 147 of the *Bankruptcy and Insolvency Act* (Canada). The Superintendent's levy payment amount shall be calculated as the lesser of (the "**Superintendent's Levy**"):

- (a) 5% of the first up to \$1 million of Priority Holder payments to be paid from time to time hereunder by CWSI to Priority Holders, and 1.25% of any amounts between \$1 million and \$2 million of Priority Holder payments paid by CWSI to Priority Holders from time to time hereunder; and
- (b) the dollar amount obtained by subtracting from \$62,500: (i) the aggregate dollar amount of all levy payments made to the Superintendent in respect of distributions

made under the Proposal, and (ii) any payments previously made under section (a) above.

17. **General Provisions**

- (a) Unless otherwise stated, all dollar amounts referred to in this Contingent Value Note shall be in Canadian funds.
- (b) In the event that the Payment Date shall not be a business day, then, notwithstanding any provision of this Contingent Value Note to the contrary, any payment required to be made in respect of the Contingent Value Note on such date need not be made on such date, but may be made on the next succeeding business day with the same force and effect as if made on the Payment Date.
- (c) Each of the provisions contained in this Contingent Value Note is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof.
- (d) This agreement represents the entire understanding of the parties hereto with reference to the Contingent Value Note and supersedes any and all other oral or written agreements made with respect to the Contingent Value Note.
- (e) This Contingent Value Note shall be governed by, and construed in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein (other than the conflict of laws rules).
- (f) Each Holder, CWSI and the Holder Representative hereby submits to the non-exclusive jurisdiction of the courts of the Province of Ontario in respect of any dispute arising under this Contingent Value Note.
- (g) In this Contingent Value Note, words importing the singular number only shall include the plural and vice versa, and words importing gender shall include all genders.
- (h) This Contingent Value Note shall be binding on CWSI and its successors and shall enure to the benefit of the Holders and their successors and assigns.
- (i) This Contingent Value Note may be signed in any number of counterparts (which may be effectively delivered by facsimile or other electronic means), each of which shall be deemed to constitute but one and the same instrument.

18. **Acknowledgments**

CWSI WAIVES PRESENTMENT FOR PAYMENT, NOTICE OF NON-PAYMENT, PROTEST AND NOTICE OF PROTEST OF THIS CONTINGENT VALUE NOTE AND WAIVES EVERY DEFENSE BASED UPON ANY OR ALL INDULGENCES AND FORBEARANCES WHICH MAY BE GRANTED BY THE HOLDERS TO ANY PARTY LIABLE HEREON. THE

HOLDER REPRESENTATIVE, ON BEHALF OF THE HOLDERS, ACKNOWLEDGES RECEIPT OF A TRUE COPY OF THIS CONTINGENT VALUE NOTE.

IN WITNESS WHEREOF CWSI has executed this Contingent Value Note as of the date first above written above.

CLEARFORD WATER SYSTEMS INC.

Per: _____ c/s
Kevin Loiseau, President and
Chief Executive Officer

We hereby agree to be bound to those terms and conditions of the Contingent Value Note that apply to the Sponsors:

**SUSTAINABLE WATER PROJECTS
INC.**

Per: _____ c/s
Authorized Signing Officer

MOREBATH LIMITED

Per: _____ c/s
Authorized Signing Officer

LEXUS CONTINENTAL LTD.

Per: _____ c/s
Authorized Signing Officer

MARTIN KLÖCK hereby consents to act as the Holder Representative in accordance with the terms of this Contingent Value Note.

MARTIN KLÖCK

_____1/s

Schedule "A"
Holders and Interests

	Claim Amount		Registered Address
PRIORITY HOLDERS			
Morebath Limited	\$7,442,276.00	66.81%	
Lexus Continental Ltd.	\$3,697,268.00	33.19%	
TOTAL PRIORITY:	\$11,139,544.00	100%	
SUBORDINATE HOLDERS			
Sustainable Water Projects Inc.	\$5,349,728.00	15.26%	
SW Everett	\$4,476,457.00	12.77%	
Clearford Koester Canada Inc.	\$16,400,317.00	46.77%	
Clearford Water Utility (Ontario) Inc.	\$1,011,797.00	2.89%	
Clearford Financial Corporation	\$7,828,026.00	22.32%	
TOTAL SUBORDINATE:	\$34,585,038.00	100.0%	

Note: Payments of Principal Amount hereunder shall have the Superintendent's Levy amount (if applicable) deducted therefrom in accordance with paragraph 16 hereof.

**IN THE MATTER OF THE PROPOSAL OF
CLEARFORD WATER SYSTEMS INC.,
OF THE CITY OF OTTAWA, IN THE PROVINCE OF ONTARIO**

Estate/Court File No. 33-2825753

ONTARIO
**SUPERIOR COURT OF JUSTICE
IN BANKRUPTCY AND INSOLVENCY**
Proceedings commenced at Ottawa

ORDER

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