

TO ALL KNOWN FORMER CREDITORS

20 April 2020

Ref: MLP/5W/SJH/TP

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Dear Sirs

## **Nortel GmbH (in Administration and formerly subject to a Company Voluntary Arrangement (“CVA”)) (the “Company”)**

In the High Court of Justice, Business and Property Courts of England & Wales, Companies and Insolvency List (ChD) No. 542 of 2009 / CR-2009-000033.

Incorporated in Germany with registered number HRB 12489. The Company's registered address is c/o Ernst & Young GmbH, Mergenthaler Allee 3-5, D- 65760 Eschborn, Germany

### **Joint Supervisors' Final CVA Progress Report**

I write to provide you with the Joint Supervisors' final progress report (“Final Report”), which includes details of the outcome of the CVA of the Company. This Final Report covers the period from 24 May 2019 to 3 April 2020, being the date the CVA was terminated, and should be read in conjunction with the CVA Proposal dated 5 April 2017 and the previous CVA progress reports. The Company is also in Administration and this Final Report should be read in conjunction with the Joint Administrators' previous reports, the Joint Administrators' Statement of Proposals dated 23 February 2009 and interim update dated 15 November 2016 as well as the most recent Administration progress report dated 13 February 2020.

Additional copies of this Final Report, and the previous reports referred to, can be made available on request or can be obtained at the following websites: [www.emeanortel.com](http://www.emeanortel.com) and [www.cva.emeanortel.com](http://www.cva.emeanortel.com).

Capitalised terms used in this Final Report shall have the same meaning as set out in Annex 1 (*Definitions and Interpretation*) of the CVA.

### **Brief Background**

On 5 April 2017, the Joint Administrators issued the Proposal for a CVA. A CVA is a legal process often used to facilitate distributions to creditors in complex situations. The CVA also provided a platform to resolve, in an equitable way, the threat of the Financial Support Directives (“FSD”) that had been brought by the UK Pension Regulator (the “Regulator”) against the Company and certain other EMEA entities in the Nortel group.

In summary the proposed CVA sought to:

- Resolve the FSD claim which could have otherwise significantly diluted and/or delayed returns to creditors;

- Provide a mechanism for the Joint Administrators as Joint Supervisors to determine creditor claims and distribute funds as quickly as possible; and
- Impose a bar date, being 26 September 2017 (“the Bar Date”) by which pre-appointment claims against the Company were to be submitted to the Joint Supervisors, allowing distributions to occur in a timely manner.

On 24 May 2017, meetings of both the Company’s creditors and members were held to vote on the Proposal. The Proposal was approved by both the Company’s creditors and members and the Effective Date occurred on 26 May 2017.

The CVA was being supervised by the Joint Supervisors, being A R Bloom, S J Harris, A M Hudson and J Hewitt-Schembri who acted as agents of the Company and without personal liability.

J Hewitt-Schembri formally resigned from her position as Joint Supervisor of the Company on 17 July 2019 on account of her leaving EY and the resignation became effective 14 August 2019.

### **Claim adjudication and distributions to creditors**

In accordance with the terms of the CVA, the Joint Supervisors adjudicated the claims received in advance of the CVA Bar Date. The total value of claims submitted was £2,190,339,214 (including a significant contingent claim submitted by the UK Pension Regulator), of which £38,678,735 was admitted for payment and £2,151,660,479 was rejected.

Having adjudicated the majority of claims and with the passing of the CVA and Expense Bar Dates, being 26 September 2017 and 27 October 2017 respectively, in December 2017, the Joint Supervisors determined that they were in a position to make a first interim distribution to unsecured creditors in accordance with the Terms of the CVA.

Subsequently, on 5 December 2017, the Joint Supervisors declared and paid an initial interim distribution of 95p in the pound (GBP) to unsecured creditors with non-subordinated Allowed CVA claims.

Following this, a second interim distribution was declared on 17 August 2018 in respect of creditors with unsecured, non-subordinated Allowed CVA claims of the remaining 5p in the pound (GBP) in respect of the principal element of their claims plus 50 percent of the Commercial Interest accrued in line with the Terms of the CVA.

On 21 March 2019, a third interim distribution was declared in respect of non-subordinated Allowed CVA claims of a further 27.5 percent of the Commercial Interest accrued in line with the Terms of the CVA.

On 5 December 2019, following the successful realisation of all remaining assets by the Joint Administrators (including certain trade receivables owed to the Company by entities under insolvency proceedings in Germany and the recovery of interest owed to the Company from Nortel Networks (Ireland) Limited), a fourth and final distribution was declared in respect of the remaining 22.5 percent of Commercial Interest accrued on non-subordinated, Allowed CVA claims. This fourth distribution marked the payment of the full entitlement to Commercial Interest to non-subordinated, unsecured creditors with Allowed CVA claims. These creditors have, in commercial terms, recovered 115% of their Allowed CVA claims. A distribution in the amount of £1,750,000 was paid in respect of the CCAA Subordinated Debt representing 52.7p in the pound (GBP) against the principal Allowed claim.

Given that non-subordinated, unsecured creditors with Allowed CVA claims have been paid in full and with no further assets available for distribution to creditors, it has been determined that the CVA has been successfully completed and should be terminated.

## **CVA Termination**

Following payment of the final distribution on 5 December 2019, the Joint Supervisors were in a position to terminate the CVA on the basis that they were satisfied that:

- CVA Claims had been adjudicated and admitted in whole or in part as Allowed Claims or rejected;
- There were no CVA Claims that were Disputed Claims;
- On making the final Distribution, all Allowed CVA claims (that were not Subordinated Claims) had been paid in full as well as being paid a full entitlement to Commercial Interest. In addition, an element of the CCAA Subordinated Debt was paid in the amount of £1,750,000.
- Following the making of the final Distribution, the CVA had achieved its main objectives; and
- Following the termination of the CVA, it would be possible for the Joint Administrators to seek discharge from office and ultimately the dissolution of the Company in accordance with German law.

Notwithstanding the aforementioned, following the final distribution, the Joint Supervisors were aware that certain creditors, who were distributed to by cheque, had not cashed their cheques. These cheques totalled £18,791.21 in value. The implication of this was that, absent a modification of the CVA, the CVA would be required to continue for a period of one year from the issue of the uncashed cheques. Only after the expiry of this period could the funds be returned to the Joint Administrators and the CVA be terminated.

Given this, the Joint Supervisors determined that it was in the best interests of the CVA Creditors to accelerate the process by modifying the CVA to the effect that if there were any cheques uncashed at the time of the proposed CVA termination, the Company would transfer the value of those cheques to Nortel Networks UK Limited (in Administration) (“NNUK”) and that NNUK would hold these funds for the benefit of the beneficiaries of these cheques for a period of one year from the date of the final distribution, at which time any unclaimed funds will be donated to a registered charity.

A copy of the CVA modification can be found on the Nortel website [www.emeanortel.com](http://www.emeanortel.com).

The CVA was terminated on 3 April 2020 and in accordance with the CVA modification, an amount of £18,791.21 was transferred to NNUK in respect of such uncashed cheques.

## **Nominees’ and Joint Supervisors’ time costs**

The period from which the decision was made to propose a CVA to creditors until the CVA was approved by creditors represented the period where the Joint Administrators acted as the Nominees. This period, together with the period since the approval of the CVA, shall be referred to as the “CVA period” in this section.

The Nominees’ costs are those costs incurred by the Nominees during the period leading up to the approval of the CVA.

The Joint Supervisors’ time costs are those time costs incurred following the approval of the CVA by the creditors on 26 May 2017.

The Nominees and Joint Supervisors of the CVA have incurred time costs directly charged to this entity (“Direct Time Costs”) of £50,341.00 and £325,902.03, respectively, in the CVA period to 3 April 2020, totalling £376,243.03.

In addition, during the CVA period, the Joint Supervisors have apportioned between certain Nortel EMEA entities central time costs for workstreams undertaken for the benefit of the Nortel EMEA group entities (“General Time Costs”). During the CVA period to 3 April 2020, £104,597.92 of Nominees’ General Time Costs and £6,266.76 of Joint Supervisors’ General Time Costs were allocated to the Company in respect of these apportionments.

The Nominees’ and Joint Supervisors’ total time costs, including both Direct and General Time Costs, for the period to 3 April 2020 are £487,107.71.

In accordance with the clause 30.6 of the Terms of the CVA, the creditors of the Company previously approved certain of these time costs for the period to 29 June 2018, totalling £340,285.68. There is an outstanding balance of time costs to be approved of £146,822.03 for the period to 3 April 2020. The Joint Supervisors will seek approval of the English Court for their time costs as appropriate, in due course.

A summary of the time costs incurred for the CVA period to 3 April 2020 are appended to this Final Report for creditors’ information (see Appendix 1).

Remuneration of the Joint Supervisors is governed by the Terms of the CVA. Further information is given in the Association of Business Recovery Professionals’ publication ‘A creditors’ guide to insolvency practitioners’ fees under voluntary arrangements’ a copy of which may be accessed from the web site of the Institute of Chartered Accountants in England and Wales at <https://www.icaew.com/en/technical/insolvency/creditors-guides> or is available in hard copy upon written request to me.

## Receipts and Payments

Attached at Appendix 2 is the Joint Supervisors’ receipts and payments (“R & P”) account for the CVA period to 3 April 2020 in respect of the Company.

As at 3 April 2020, the Company held no cash in the Joint Supervisors’ bank accounts.

Further detailed notes in respect of the R & P account for the period to 3 April 2020 are provided at Appendix 2.

Cash held by the Joint Administrators is reported separately in the Joint Administrator’s progress reports.

We should like to take this opportunity to thank the former creditors of the Company and the members of the Creditors’ Committee for their support during the CVA of the Company.

Yours faithfully



S J Harris  
Formerly Joint Supervisor of the Company Voluntary Arrangement of Nortel GmbH

*The Institute of Chartered Accountants in England and Wales in the UK authorises A R Bloom and S J Harris to act as Insolvency Practitioners under section 390A(2)(a) of the Insolvency Act 1986 and the Insolvency Practitioners Association in the UK authorises A M Hudson to act as Insolvency Practitioner under section 390A(2)(a) of the Insolvency Act 1986.*

*The affairs, business and property of the Company are being managed by the Joint Administrators, A R Bloom, S J Harris and A M Hudson who act as agents of the Company only and without personal liability.*



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*The Company was also subject to a Company Voluntary Arrangement. The Joint Supervisors were A R Bloom, S J Harris and A M Hudson who acted as agents of the CVA Company and without personal liability.*

*The Joint Administrators may collect, use, transfer, store or otherwise process (collectively, "Process") information that can be linked to specific individuals ("Personal Data"). They may Process Personal Data in various jurisdictions in accordance with applicable law and professional regulations including (without limitation) the Data Protection Act 2018.*

*The Joint Administrators may act as data controllers of personal data as defined by the General Data Protection Regulation 2016/679, depending upon the specific processing activities undertaken. Ernst & Young LLP and/or the Companies may act as a data processor on the instructions of the Joint Administrators and Joint Supervisors. Personal data will be kept secure and processed only for matters relating to the Joint Administrators' and Joint Supervisors' appointment. The Office Holder Data Privacy Notice can be found at [www.ey.com/uk/officeholderprivacy](http://www.ey.com/uk/officeholderprivacy).*

## Appendix 1

### Nortel GmbH (In Administration and formerly subject to a CVA)

#### Joint Supervisors' Abstract of fees for the period to 3 April 2020

##### Summary of total time costs incurred for the period

<b>Time costs for the CVA Period to 3 April 2020</b>	<b>£</b>
Joint Nominees' direct time costs	50,341.00
Joint Nominees' general time costs	104,597.92
Joint Supervisors' direct time costs	325,902.03
Joint Supervisors' general time costs	6,266.76
<b>Total time costs for the CVA Period to 3 April 2020 <sup>(1)</sup></b>	<b>487,107.71</b>
<b>Time costs approved to date (to 29 June 2018)</b>	
Joint Nominees' direct time costs approved to date (to 29 June 2018)	(50,341.00)
Joint Nominees' general time costs approved to date (to 29 June 2018)	(104,597.92)
Joint Supervisors' direct time costs approved to date (to 29 June 2018)	(179,080.00)
Joint Supervisors' general time costs approved to date (to 29 June 2018)	(6,266.76)
<b>Total time costs for the CVA Period to 29 June 2018</b>	<b>(340,285.68)</b>
<b>Total time costs for approval</b>	<b>146,822.03</b>

**Note 1:** In addition to the time costs for the CVA Period to 3 April 2020, immaterial costs will be charged in relation to all final statutory duties following the termination of the CVA.

### Nominees' Direct time cost for the CVA period to 3 April 2020

Activity	Hours						Total sum of hours	Average hourly rate (£)	Total time costs for the period to 03 April 2020 (£)
	Partner	Director / Executive Director	Assistant Director	Manager	Executive / Assistant Executive	Analyst			
Nominees' direct time	-	12.2	11.6	39.7	0.6	95.0	159.1	316.41	50,341.00
<b>Grand Total</b>	-	<b>12.2</b>	<b>11.6</b>	<b>39.7</b>	<b>0.6</b>	<b>95.0</b>	<b>159.1</b>		<b>50,341.00</b>
Average hourly rate (£)	-	770.00	565.00	415.00	305.00	186.68			
Time costs for the Period (£)	-	9,394.00	6,554.00	16,475.50	183.00	17,734.50			

### Joint Supervisors' Direct time cost for the CVA period to 3 April 2020

Activity	Hours					Total sum of hours	Average hourly rate (£)	Total time costs for the period to 03 April 2020 (£)
	Director / Executive Director	Assistant Director	Manager	Executive / Assistant Executive	Analyst			
Distribution	9.5	31.4	212.5	44.0	42.5	339.9	384.98	130,853.54
Creditor claim adjudication	34.8	62.5	76.8	23.7	36.8	234.6	458.97	107,674.05
Creditors' Committee	16.2	4.5	14.0	7.0	15.9	57.6	452.47	26,062.00
Finance, accounting and administration	-	0.1	0.9	45.7	32.4	79.1	258.45	20,443.30
Creditor correspondence	4.5	10.5	11.1	-	10.9	37.0	417.45	15,445.64
Fees and time costs	0.4	5.0	4.3	26.6	48.8	85.1	167.31	14,238.50
Corporation tax	-	-	9.0	-	2.5	11.5	367.17	4,222.50
Statutory	-	-	2.5	2.1	25.1	29.7	221.30	6,572.50
VAT	-	-	-	-	2.0	2.0	195.00	390.00
<b>Grand Total</b>	<b>65.4</b>	<b>114.0</b>	<b>331.1</b>	<b>149.1</b>	<b>216.9</b>	<b>876.5</b>		<b>325,902.03</b>
Average hourly rate (£)	757.69	536.88	415.00	279.97	165.95			
Time costs for the Period (£)	49,553.00	61,204.69	137,406.50	41,744.04	35,993.80			

### Nominees' General time cost for the CVA period to 3 April 2020

Activity	Hours						Total sum of hours	Average hourly rate (£)	Total time costs for the period to 03 April 2020 (£)	Company cost percentage allocation	Time costs for the Company for the period to 03 April 2020 (£)
	Partner	Director / Executive Director	Assistant Director	Manager	Executive / Assistant Executive	Analyst					
Nominees' general time	3.1	397.9	524.0	531.4	6.5	166.2	1,629.1	527.58	859,473.50	12.17%	104,597.92
Average hourly rate (£)	805.00	770.00	565.00	415.00	305.00	192.67					
Time costs for the Period (£)	2,495.50	306,383.00	296,060.00	220,531.00	1,982.50	32,021.50					

### Joint Supervisors' General time cost for the CVA period to 3 April 2020

Activity	Hours						Total sum of hours	Average hourly rate (£)	Total time costs for the period to 03 April 2020 (£)	Company cost percentage allocation	Time costs for the Company for the period to 03 April 2020 (£)
	Partner	Director / Executive Director	Assistant Director	Manager	Executive / Assistant Executive	Analyst					
Supervisors' general time	-	18.5	29.7	9.5	38.4	27.3	123.4	417.29	51,493.50	12.17%	6,266.76
<b>Grand Total</b>	-	<b>18.50</b>	<b>29.70</b>	<b>9.50</b>	<b>38.4</b>	<b>27.3</b>	<b>123.4</b>		<b>51,493.50</b>		<b>6,266.76</b>
Average hourly rate (£)	-	770.00	565.00	415.00	291.72	195.00					
Time costs for the Period (£)	-	14,245.00	16,780.50	3,942.50	11,202.00	5,323.50					



## Appendix 2

### Nortel GmbH (In Administration and formerly subject to a CVA)

#### Joint Supervisors' Abstract of Receipts and Payments from 26 May 2017 to 3 April 2020

Nortel GmbH (In Administration and formerly subject to a Company Voluntary Arrangement) Supervisors' receipts and payments account for the period 24 May 2017 to 3 April 2020				
Currency: GBP	Notes	Period 24 May 2017 to 23 May 2019	Period 24 May 2019 to 3 April 2020	Total to 3 April 2020
Opening balance		-	164,494	
<b>Receipts</b>				
- Transfer from Administrators		43,280,478	3,877,638	47,158,116
		<u>43,280,478</u>	<u>3,877,638</u>	<u>47,158,116</u>
<b>Payments</b>				
- Distribution to creditors	1	(42,487,288)	(3,931,584)	(46,418,873)
- Joint Supervisors' fees and disbursements		(368,025)	(50,336)	(418,361)
- Legal fee recharges	2	(256,504)	(39,965)	(296,468)
- Bank charges and interest		(4,166)	(1,143)	(5,309)
- Transfer to Nortel Networks UK Limited	3	-	(19,066)	(19,066)
- Transfer to Joint Administrators			(39)	(39)
		<u>(43,115,984)</u>	<u>(4,042,132)</u>	<u>(47,158,116)</u>
Closing balance		<u>164,494</u>	-	-
Account reconciliations:				
Uncashed cheques	4	(1,658)		-
Joint Supervisors' Accounts		<u>162,836</u>	-	-

## Notes to R&P

### Note 1

Distribution to creditors represents the 100p in the pound distribution to non-subordinated, Allowed CVA Claims plus Commercial Interest in full in line with the Terms of the CVA and an element of the CCAA Subordinated Debt in the amount of £1,750,000.

### Note 2

Recharges relate to legal fees which are billed to the shareholder (Nortel Networks International Finance & Holding BV) and allocated to each entity respective of work completed in the period

### Note 3

Amounts transferred to NNUK are in respect of unrepresented cheques from the last distribution made to creditors on 5 December 2019, in line with the Terms of the CVA modification as detailed in the body of this report.

### Note 4

Unrepresented cheques represent distributions made to creditors by cheque that had not yet cashed their cheques during the period in consideration.