

## **DECLARATION OF INDEPENDENCE, RELEVANT RELATIONSHIPS AND INDEMNITIES**

### **HASTIE GROUP OF COMPANIES PER ATTACHED SCHEDULE (ALL ADMINISTRATORS APPOINTED)**

This document requires the Practitioner/s appointed to an insolvent entity to make declarations as to:

- A. their independence generally
- B. relationships, including
  - i. the circumstances of the appointment;
  - ii. any relationships with the Insolvent and others within the previous 24 months;
  - iii. any prior professional services for the Insolvent (no time limit);
  - iv. that there are no other relationships to declare; and
- v. any indemnities given, or up-front payments made, to the Practitioner

This declaration is made in respect of us, our partners, PPB Advisory and the related entities covered by the extended definition of firm.

#### **A. Independence**

We, David L McEvoy, Ian M Carson and Craig D Crosbie of PPB Advisory, Level 21, 181 William Street, Melbourne, Victoria 3000 have undertaken a proper assessment of the risks to our independence prior to accepting the appointment as Joint & Several Administrators of the Hastie Group of Companies in accordance with the law and applicable professional standards.

This assessment identified no real or potential risks to our independence. We are not aware of any reasons that would prevent us from accepting this appointment.

#### **B. Declaration of Relationships**

##### **i. Circumstances of appointment**

We had preliminary meetings with the Hastie Group of Companies, their Directors and their advisers during the fortnight prior to our appointment for the purposes of assisting the Hastie Group of Companies with the planning of a possible appointment of Administrators.

These discussions do not affect our independence as the advice was given to the Hastie Group of Companies and not to the Director(s) personally.

Further, the advice was restricted to the limitations imposed by Principle 2 of the Code of Professional Practice in relation to pre-appointment advice. Also, the advice provided is unlikely to be subject to review during the administration and would not impact on compliance with our statutory and fiduciary duties. It is for these reasons the advice does not, in our opinion, give rise to a conflict of interest or duty.

We received \$65,000 (Incl GST) for this advice.

**ii. Relevant Relationships (excluding Professional Services to the Insolvent)**

We, or a member of our firm, have, or have had within the preceding 24 months, a relationship with:

Name	Nature of relationship	Reasons why not an Impediment or Conflict
Australia and New Zealand Banking Group Limited National Australia Bank Limited Commonwealth Bank of Australia Limited Hong Kong and Shanghai Banking Corporation Limited Bank of Scotland Public Corporation Limited Westpac Banking Corporation Limited (‘the Charge Holders’)	The Charge Holders hold charges and cross guarantees over the Hastie Group of Companies’ property. We have professional relationships with the majority of major banks and lenders in Australia and with a number of staff within the Charge Holders organisations, particularly in the credit area. We have previously undertaken formal and informal assignments on behalf of the Charge Holders for a number of years.	There are no matters of which we are aware which give rise to a conflict in this appointment. In particular, our previous relationships with the Charge Holders were not in relation to the Hastie Group of Companies and/or the Directors’ affairs or related parties of the Hastie Group of Companies and/or the Directors.

There are no other prior professional or personal relationships that should be disclosed.

**iii. Prior Professional services to the Insolvent**

We, or a member of our Firm, have undertaken the following engagements for the Hastie Group of Companies prior to the acceptance of this appointment:

Nature of Professional Service	Reasons why not an Impediment or Conflict
<b>Planning work Engagement</b> On 10 May 2012, we were engaged by the Hastie Group of Companies to assist with the planning of a possible appointment of Administrators.  We were paid a total fee of \$65,000 (Incl GST) for the service provided.	The work undertaken per the Engagement allowed us to develop an understanding of the Hastie Group of Companies, its activities and assist us in preparing for the possible appointment of Administrators. This work did not involve any advice regarding the solvency or otherwise of the Hastie Group of Companies or the decision to appoint Administrators.

It should be noted that Phil Carter, a partner of PPB Advisory, was appointed Joint & Several Administrator of the Spectrum Group of Companies (not related to the Hastie Group of Companies) on 2 May 2010. The business and assets of the Spectrum Group were sold to Spectrum Fire & Security Pty Ltd, a member of the Hastie Group of Companies, on 3 May 2010.

#### iv. No other relevant relationships to disclose

There are no other known relevant relationships, including personal, business and professional relationships, from the previous 24 months with the Hastie Group of Companies, an associate of the Hastie Group of Companies, a former insolvency practitioner appointed to the Hastie Group of Companies or the Hastie Group of Companies' property that should be disclosed.

#### C. Indemnities and up-front payments

As at the date of this revised Declaration of Independence, Relevant Relationships and Indemnities (**DIRRI**), the Administrators are negotiating the terms upon which they will be provided with an indemnity and other safeguards to meet the debts, liabilities, remuneration and expenses incurred during the administration of the Hastie Group of Companies.

The terms of the proposed indemnity are now substantially agreed between the parties and the Administrators expect to enter into a Deed of Direction and Indemnity within a short period of time. Set out below is a current summary of the relevant terms of the proposed arrangement.

<b>Names of Parties</b>	<ul style="list-style-type: none"><li>• Australia and New Zealand Banking Group Limited;</li><li>• National Australia Bank Limited;</li><li>• Commonwealth Bank of Australia Limited;</li><li>• Hong Kong and Shanghai Banking Corporation Limited;</li><li>• Ulster Bank Ireland Limited;</li><li>• Ulster Bank Limited;</li><li>• Bank of Scotland Public Corporation Limited; and</li><li>• Westpac Banking Corporation Limited (<b>Banking Syndicate</b>); and</li><li>• Joseph David Hayes, Peter McKenzie Anderson, Jason Preston and Matthew Wayne Caddy in their capacity as receivers and managers of Hastie Holdings Pty Ltd (Administrators Appointed)(Receivers and Managers Appointed) (<b>Receivers</b>).</li></ul>
<b>Relationship with Company/Director</b>	The Banking Syndicate is the major secured creditor of the Hastie Group of Companies and the Receivers were appointed by the Banking Syndicate as receivers and managers of Hastie Holding Pty Limited (Administrators Appointed)(Receivers and Managers Appointed) as well as 10 other Hastie Group companies.
<b>Indemnity or upfront payment</b>	The Indemnity is to be provided by way of a limited indemnity from the Receivers ( <b>Receivers' Indemnity</b> ) together with a direction from the Banking Syndicate ( <b>Syndicate Direction</b> ) permitting the Administrators to retain certain amounts which, in the usual course and following satisfaction of any priority claims, would be paid to the Banking Syndicate in reduction of amounts owing to it. The Banking Syndicate will agree to forgo its entitlement to receive such amounts.

<b>Amount</b>	<p>The Receivers' Indemnity is limited to \$2,000,000.</p> <p>The Syndicate Direction is limited to \$2,000,000 in so far as it relates to the retention by the Administrators of recoveries from non-circulating assets (which were subject to the Banking Syndicate's security) (<b>Non-Circulating Asset Direction</b>). However, the Syndicate Direction is unlimited in respect of recoveries from circulating assets which were subject to the Banking Syndicate's security) (<b>Circulating Asset Direction</b>).</p>
<b>What the indemnity or upfront payment covers</b>	<p>The Receivers' Indemnity and the recoveries retained pursuant to the Circulating Asset Direction may be applied to any debts, liabilities, remuneration and expenses incurred by the Administrators.</p> <p>The recoveries retained pursuant to the Non-Circulating Asset Direction may only be utilised by the Administrators to meet debts, liabilities, remuneration and expenses incurred by the Administrators in respect of certain limited categories of work.</p>
<b>Where are the funds held (if received upfront)</b>	<p>Following receipt, funds retained pursuant to the Syndicate Direction will be kept in ANZ bank accounts maintained by the Administrators.</p> <p>The Receivers' Indemnity will not be received upfront.</p>
<b>Any restrictions on the use of the funds</b>	<p>The terms of the agreement do contemplate some limitations upon the ability of the Administrators to have recourse to it. This is in respect of debts, liabilities, remuneration and expenses:</p> <ul style="list-style-type: none"> <li>(a) for which the Administrators would not be indemnified for under the terms of the <i>Corporations Act 2001</i> (Cth) (<b>Act</b>);</li> <li>(b) arising from the Administrators continuing to trade any business of a Company on an ongoing basis, where that continued trading was done without the consent of the Banking Syndicate;</li> <li>(c) incurred by the Administrators in connection with progressing or continuing a particular piece of litigation, being specifically, the matter of <i>Hastie Group Limited and Rotary Limited v Ulster Bank Limited</i>, Supreme Court of NSW proceeding number 2012/00129263 (<b>Proceeding</b>) (other than the costs incurred in reviewing and, if thought proper, dismissing the Proceeding); and</li> <li>(d) incurred in connection with the administration of Hastie International Pty Limited or other matters in the Middle East (other than to the extent that such amounts relate to work undertaken at the Receivers' reasonable request or work completed by the Administrators to satisfy their obligations in respect to that entity arising under the Act).</li> </ul>

In the event that the terms agreed to by the parties differ to those set out above, the Administrators will provide an further amended DIRRI.

This does not include statutory indemnities. We have not received any other indemnities or upfront payments that should be disclosed.

Dated 13th day of June 2012



(signed, David L McEvoy )



(signed, Ian M Carson)



(signed, Craig D Crosbie)

**NOTE:**

1. *If circumstances change, or new information is identified, we are required under the IPA Code of Professional Practice to update this Declaration and provide a copy to creditors with our next communication as well as table a copy of any replacement declaration at the next meeting of the insolvent's creditors.*
2. *Any relationships, indemnities or up-front payments disclosed in the DIRRI must not be such that the Practitioner is no longer independent. The purpose of components B and C of the DIRRI is to disclose relationships that, while they do not result in the Practitioner having a conflict of interest or duty, ensure that creditors are aware of those relationships and understand why the Practitioner nevertheless remains independent.*