

# **The Brink Company Pty Ltd (Administrators Appointed) (Trading as Brink Drinks) (The Company)**

**Initial notice to creditors**

10 May 2024

# Introduction

Martin Ford and Michael Fung of PricewaterhouseCoopers Australia (**PwC**) were appointed Joint and Several Administrators (**Administrators**) of The Brink Company Pty Ltd (**the Company**) on 8 May 2024 pursuant to Section 436A of the *Corporations Act 2001* (**Act**).

According to the Company's records, you may be a creditor. The purpose of this Report is to inform you about:

- the administration of Brink Drinks; and
- your rights as a creditor.

The Administrators are now in control of the Company's business and assets. Proceedings against the Company or its property cannot be commenced or continued during the administration period without leave of the court.

Our Declaration of Independence, Relevant Relationships and Indemnities (**DIRRI**) is attached at **Appendix A**. The DIRRI provides details of any relevant relationships that we have, and any indemnities or upfront payments that have been provided to us. In our view, none of the relationships disclosed in the DIRRI result in any conflict of interest or duty or affect our independence.

In reviewing this Report, creditors should note:

- This Report is based upon our preliminary investigations to date. Any additional material issues that are identified subsequent to issuing this Report may be the subject of a further report(s).
- The contents of this Report are based on information obtained from the Company's books and records, financial systems, representations from the directors, key management and our own enquiries and investigations.
- The statements and opinions given in this Report are given in good faith and in the belief that such statements and opinions are not false or misleading.
- Neither the Administrators, PwC nor any member or employee of the firm is responsible in any way whatsoever to any person in respect of any errors in this Report arising from incorrect information provided to us.
- The Administrators do not assume or accept any responsibility for any liability or loss sustained by any creditor or any other party as a result of the circulation, publication, reproduction or any use of the information presented in this Report.
- This Report is not for general circulation, publication, reproduction or any use other than to assist creditors in evaluating their position as creditors of the Company and must not be disclosed without the prior approval of the Administrators.
- Liability limited by a scheme approved under Professional Standards Legislation.

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# 1 What is a voluntary administration?

A voluntary administration, or a “VA”, is a process initiated by the director(s) of a company when they believe that the company is, or is likely to become, insolvent. An administrator may also be appointed by a liquidator or a secured creditor. This means that the company is unable to pay its debts or is likely to become unable to pay its debts.

A voluntary administration gives a company an opportunity to consider its financial position and its future. Creditors at the forthcoming second meeting of creditors will be given an opportunity to vote on the future of the Company.

# 2 What happens to your debt?

All creditors of the Company are now creditors in the voluntary administration. As a creditor, you have certain rights, although your debt will be dealt with in the voluntary administration.

It is important to note that a voluntary administration creates restrictions on creditors being able to enforce their rights. You generally cannot enforce your claim, recover your property, enforce your security, commence an action to place the Company into liquidation or act on a personal guarantee.

Outlined below is information regarding how to complete a proof of debt form. The proof of debt provides information about what the Company owes you.

If you have leased property to the Company, have a retention of title claim or hold a Personal Property Security registration in relation to the Company and have not received correspondence from us, please contact us as soon as possible via email at [amit.a.kotecha@au.pwc.com](mailto:amit.a.kotecha@au.pwc.com).

# 3 Trading on the business and ongoing supply

The Company’s operations will likely cease shortly as there are insufficient funds to maintain ongoing trading activities.

If there are any outstanding or unfulfilled orders placed by the Company prior to our appointment, please cancel all unfulfilled orders.

Please immediately close any existing account(s) in the Company’s name and send us a final invoice/statement. The balance of all outstanding invoices as at the date of our appointment will represent an unsecured claim against that company.

If you have supplied goods to the Company on consignment or have registered a security interest on the Personal Property Securities Register (PPSR), you will shortly receive a separate letter providing you with further instructions. Please contact Mr. Amit Kotecha if you do not receive this letter in the next few days.

## 4 Meeting of creditors

We are required to hold two meetings.

### 4.1 First meeting of creditors

The first meeting of creditors (**First Meeting**) will be held virtually (i.e., there will be no physical meeting) as follows:

Date: Friday, 17 May 2024  
Time: 10:30 AM AEDT  
Location: Held using virtual meeting technology

We enclose a Notice of Meeting, Form 529A, at **Appendix B**.

The First Meeting is required to be held within eight business days after the appointment of the Administrators. The purpose of the meeting is to provide creditors with background to the appointment and for creditors to determine whether to appoint a Committee of Inspection (**COI**) to assist the Administrators and, if so, who are to be the COI's members.

At the meeting, creditors may also, by resolution, remove the Administrators from office and appoint replacement Administrators.

To participate in this meeting, you must submit a proof of debt and information to substantiate your claim as well as a proxy form. The proof of debt form and proxy form are enclosed at **Appendix G** and **Appendix H**. Both forms must be returned to this office by email to Mr. Amit Kotecha by 4pm AEST on Thursday, 16 May 2024. Meeting details will be provided on receipt.

Please note that it is not compulsory for you to attend the meeting and non-attendance will not affect the validity of your claim.

### Committee of Inspection (COI)

At this meeting, creditors will consider whether a COI should be appointed. The role of a COI is to consult with the Administrators and receive reports on the conduct of the administration. A creditors' committee can also approve the Administrators' fees.

It is our opinion that a COI would be useful to assist with the conduct of the administration. An information sheet on the role of a COI is included at **Appendix F**.

If you wish to be a COI member or would like to nominate a member for appointment to a COI (if one is appointed), please must complete the attached Nomination Form at **Appendix I** and return it to this office no later than 4.00pm (AEST) on the day prior to the meeting by email to Mr. Amit Kotecha.

### 4.2 Second meeting of creditors

As Administrators, we are required to investigate the business, property, affairs and financial circumstances of the Company in order to form an opinion as to whether it would be in the best interests of creditors:

- that the administration should end (and control of the company revert to its director)

- that the company enter into a Deed of Company Arrangement or
- that the company be wound up, i.e. placed in liquidation.

A Second Meeting of creditors (**Second Meeting**) will be held to determine the Company's future at which time creditors will vote for one of the above options. The Second Meeting must be held by 8 June 2024 unless an extension of the convening period is sought and approved by the court.

A notice of the Second Meeting will be forwarded to all known creditors of the Company in due course.

## 5 Remuneration of administrators

Included at **Appendix C** are our Initial Remuneration Notices for the Company. These documents provide you with information about how we propose to be paid for undertaking the administration.

Where a COI is formed, we will seek approval of our remuneration by that committee. If a COI is not formed, we will seek creditor approval of our remuneration at the Second Meeting.

We will provide you with detailed information regarding our remuneration before that meeting so that you can understand what tasks we have undertaken or will be required to undertake, and the costs of those tasks.

## 6 Creditors electronic communication method approval form

Creditors may elect to receive future notices and documents relating to the administration of the Company by email. Should you wish to do so, please complete the Creditor's approval to use of email form at **Appendix D** and return it to [amit.a.kotecha@au.pwc.com](mailto:amit.a.kotecha@au.pwc.com).

We recommend that, where possible, creditors elect to receive future notices electronically as this will facilitate the communication process and reduce the costs of the administration.

## 7 Your rights as a creditor

Information regarding your rights as a creditor is provided in the information sheet included at **Appendix E**. This includes your right to:

- make reasonable requests for information;
- give directions to us;
- appoint a reviewing liquidator; and
- replace us as administrators.

## 8 Where can you get more information?

You can access information on corporate insolvency that may assist you on the following websites:

- Australian Restructuring Insolvency and Turnaround Association at [www.arita.com.au/creditors](http://www.arita.com.au/creditors)
- ASIC at [www.asic.gov.au](http://www.asic.gov.au) (search for "insolvency information sheets").

## 9 What should you do next?

You should now:

- read the information attached,
- decide whether you will attend the First Meeting,
- complete and return your proof of debt (**Appendix G**) and, if required, proxy form (**Appendix H**) by **4pm AEDT on Thursday, 16 May 2024**,
- complete and return the Nomination form – COI (**Appendix I**) for those creditors wishing to be considered as a member of the COI (if one is appointed)
- complete and return Creditor's approval to use of email form (**Appendix D**) if you wish to receive future correspondence by email.

DATED this 10<sup>th</sup> day of May 2024.



**Martin Ford and Michael Fung**  
Joint and Several Administrators

|                      |                           |
|----------------------|---------------------------|
| Date of appointment: | 8 May 2024                |
| Contact name:        | Amit Kotecha              |
| Email:               | amit.a.kotecha@au.pwc.com |

# Appendices

|            |   |
|------------|---|
| Appendix A | Declaration of Independence, Relevant Relationships and Indemnities |
| Appendix B | Form 529A - Notice of first meeting of creditors                    |
| Appendix C | Initial remuneration notices  |
| Appendix D | Creditor's approval to use of email form                            |
| Appendix E | Information sheet – Creditor rights in Voluntary Administration     |
| Appendix F | Information sheet – Committee of Inspection                         |
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## Appendix A

# Declaration of Independence, Relevant Relationships and Indemnities

## **Declaration of Independence, Relevant Relationships and Indemnities (DIRRI)**

**The Brink Company Pty Ltd (Administrators Appointed)**  
**Trading as Brink Drinks**  
**ACN 628 948 694 (the Company)**

The purpose of this document is to assist creditors with understanding any relevant relationships that we have with parties who are closely connected to the Company and any indemnities or upfront payments that have been provided to us. None of the relationships disclosed in this document are such that our independence is affected.

This information is provided so you have trust and confidence in our independence and, if not, you can ask for further explanation or information and can act to remove and replace us if you wish.

This declaration is made in respect of ourselves, the partners and staff of PricewaterhouseCoopers (**PwC**), and all members of the PwC global network in Australia.

We are professional members of the Australian Restructuring Insolvency and Turnaround Association (**ARITA**). We acknowledge that we are bound by the ARITA Code of Professional Practice (**CoPP**).

A Practitioner appointed to an insolvent entity is required to make declarations as to:

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

### **A. Independence**

We, Michael Fung and Martin Ford, of PwC, 2 Riverside Quay, Southbank, Victoria, have assessed our independence and we are not aware of any reasons that would prevent us from accepting this appointment.

There are no other known relevant relationships, including personal, business, and professional relationships that should be disclosed beyond those we have disclosed in this document.

In the event that a potential threat to our independence arises, we will seek independent legal advice or court directions if appropriate.

In the event that this declaration needs to be updated, we will provide a replacement DIRRI in accordance with the *Corporations Act 2001* (**Act**) and the ARITA CoPP.

### **B. Circumstances of appointment**

#### ***i. How we were referred this appointment***

This appointment was referred to us by Keith Hardy, a former partner of PwC who had previously provided tax advice to entities related to one of the secured creditors, Dorman Capital.

We believe that this referral does not result in a conflict of interest or duty because:

- Mr Hardy is no longer a partner of PwC.

- There is no expectation, agreement or understanding between us and Mr Hardy regarding the conduct of the administration and we are free to act independently and in accordance with the law and applicable professional standards.

## **ii. Meetings with the Company's directors before our appointment**

Prior to our appointment, we had the following interactions with the Company, its director(s) and their advisors during the period 19 April 2023 to 8 May 2024:

- 19 April 2023, Initial telephone discussion between Mr Jason Vanderzalm (director) and Mr Ford to discuss the Company's financial position.
- Subsequent discussions and emails between Mr Vanderzalm and Mr Ford between 19 April and early May 2023.
- 31 May 2023 telephone discussion between Mr Ford and Mr Vanderzalm and representatives of Dorman Capital Pty Ltd to discuss the Company's financial status.
- 27 Nov 2023 Mr Ford had a telephone discussion with Mr Vanderzalm for an update on the Company's financial position.
- Mr Ford and Mr Vanderzalm exchanged messages intermittently during the period between 23 November 20203 and 2 May 2024, regarding the Company's financial status.
- 2 May 2024 Mr Vanderzalm telephone Mr Ford to advise that they were seeking a further injection of funding from the Company's secured creditor on 3 May 2024 and that if further funding was not available, then the directors may need to appoint voluntary administrators.
- 7 May 2024 Mr Vanderzalm telephoned Mr Ford to advise that they may need to appoint voluntary administrators and that he would arrange a telephone discussion with himself and fellow director Peter Caughey for the morning of 8 May 2024.
- 8 May 2024 Messrs Ford and Fung held a telephone discussion with Messrs Vanderzalm and Caughey regarding the financial status of the Company and the voluntary administration process.

We did not receive any remuneration for the above listed discussions and general advice.

We have not provided any other information or advice to the Company, its director(s) and advisors prior to our appointment, beyond that outlined in this DIRRI.

## **C. Declaration of Relationships**

| Within the previous 24 months, we or PwC, had a relationship with:   |  |   | Disclosure reference (if applicable) |
|--|--|---|--------------------------------------|
| The Brink Company Pty Ltd?   | <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes            |                                      |
| The Company's directors?   | <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes            |                                      |
| Associates of the Company?   | <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes            |                                      |
| A former insolvency practitioner appointed to the Company?   | <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes            |                                      |
| A secured creditor entitled to enforce security over the whole or substantially the whole of the Company's property? | <input type="checkbox"/> No            | <input checked="" type="checkbox"/> Yes | C (i)                                |

| Do we have any other relationships that we consider are relevant to creditors assessing our independence? |  |                              | Disclosure reference (if applicable) |
|---|--|------------------------------|--------------------------------------|
| Relationships with the Company or its Associates beyond the immediately past 24 months?                   | <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes |                                      |

|   |  |                              |                                      |
|---|--|------------------------------|--------------------------------------|
| Do we have any other relationships that we consider are relevant to creditors assessing our independence? |  |                              | Disclosure reference (if applicable) |
| Material creditors of the Company?  | <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes |                                      |
| [Other?]  | <input checked="" type="checkbox"/> No | <input type="checkbox"/> Yes |                                      |

**C (i) Relationships with a secured creditor entitled to enforce security over the whole or substantially whole of the Company's property**

| Nature of relationship – Ongoing professional relationship with secured creditor                              | Reasons why no conflict of interest or duty   |
|---|---|
| PwC has provided tax and property trust advice to related entities of one of the Company's secured creditors. | <p>We believe that these relationships do not result in a conflict of interest or duty because:</p> <ul style="list-style-type: none"> <li>The provision of services to related entities of the secured creditor are commercial relationships that, in our opinion, does not present a conflict or impediment to our role as Administrators as the services were not in relation to, and do not impact the position, of the Company.</li> <li>There are no obligations or arrangements arising from PwC's engagements with these related entities that could be perceived to influence the outcome of engagements. We are free to act independently and in accordance with the law and applicable professional standards.</li> </ul> <p>The relationships will not influence our ability to fully comply with the statutory and fiduciary obligations associated with the Administration of the Company in an objective and impartial manner.</p> |

**D. Indemnities and up-front payments**

We have not received any indemnities or up-front payments for this appointment. This does not include any indemnities that we may be entitled to under the law.

Dated this 10th day of May 2024



Michael Fung



Martin Ford

**Note:**

- The assessment of independence has been made based on an evaluation of the significance of any threats to independence and in accordance with the requirements of the relevant legislation and professional Standards.
- If circumstances change, or new information is identified, we are required under the Corporations Act 2001 or Bankruptcy Act and ARITA's 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. For creditors' voluntary liquidations and voluntary administrations, this document and any updated versions of this document are required to be lodged with ASIC.

## Appendix B

## Form 529A - Notice of first meeting of creditors

**NOTICE OF FIRST MEETING OF  
CREDITORS OF COMPANY UNDER ADMINISTRATION**

**THE BRINK COMPANY PTY. LTD.  
(ADMINISTRATORS APPOINTED)**

**ACN 628 948 694 ("the Company")  
TRADING AS BRINK DRINKS**

1. Martin Ford and I of PricewaterhouseCoopers, 2 Riverside Quay, Southbank, VIC 3006 were appointed as the Joint and Several Administrators of the Company on 8 May 2024 under Section 436A of the Corporations Act 2001.
2. Notice is now given that a virtual meeting of the creditors of the Company will be held electronically on 17 May 2024 at 10:30 AM.
3. The purpose of the meeting is to determine:
  - a. whether to appoint a committee of inspection; and
  - b. if so, who are to be the committee's members.
4. At the meeting, creditors may also, by resolution:
  - a. remove the Joint and Several Administrators from office; and
  - b. appoint someone else as administrator of the Company.

Creditors wishing to attend and vote are advised that proofs of debt and proxies must be submitted to the Administrators by 4 pm, Thursday, 16 May 2024. A special proxy can be lodged showing approval or rejection of each resolution. Proxy forms must be given to us as Joint and Several Administrators or the person named as convening the meeting. An attorney of the creditor must show the instrument by which he or she is appointed to the Chairperson of the meeting, prior to the commencement of the meeting.

Please contact Mr. Amit Kotecha on +61 (0) 456 399 791 or by email at [amit.a.kotecha@au.pwc.com](mailto:amit.a.kotecha@au.pwc.com) by 4:00 PM on Thursday, 16 May 2024 to access the virtual meeting technology.

DATED this 10th day of May 2024.



**MICHAEL FUNG**  
**JOINT AND SEVERAL ADMINISTRATOR**

**\*Voting at a Meeting the effect of Insolvency Practice Rules (Corporations) 75-85:**

**Entitlement to vote at meetings of creditors**

- (1) A person other than a creditor (or the creditor's proxy or attorney) is not entitled to vote at a meeting of creditors.
- (2) Subject to subsections (3), (4) and (5), each creditor is entitled to vote and has one vote.
- (3) A person is not entitled to vote as a creditor at a meeting of creditors unless:
  - (a) his or her debt or claim has been admitted wholly or in part by the external administrator; or
  - (b) he or she has lodged, with the person presiding at the meeting, or with the person named in the notice convening the meeting as the person who may receive particulars of the debt or claim:
    - (i) those particulars; or
    - (ii) if required—a formal proof of the debt or claim.
- (4) A creditor must not vote in respect of:
  - (a) an unliquidated debt; or
  - (b) a contingent debt; or
  - (c) an unliquidated or a contingent claim; or
  - (d) a debt the value of which is not established;unless a just estimate of its value has been made.
- (5) A creditor must not vote in respect of a debt or a claim on or secured by a bill of exchange, a promissory note or any other negotiable instrument or security held by the creditor unless he or she is willing to do the following:
  - (a) treat the liability to him or her on the instrument or security of a person covered by subsection (6) as a security in his or her hands;
  - (b) estimate its value;
  - (c) for the purposes of voting (but not for the purposes of dividend), to deduct it from his or her debt or claim.
- (6) A person is covered by this subsection if:
  - (a) the person's liability is a debt or a claim on, or secured by, a bill of exchange, a promissory note or any other negotiable instrument or security held by the creditor; and
  - (b) the person is either liable to the company directly, or may be liable to the company on the default of another person with respect to the liability; and
  - (c) the person is not an insolvent under administration or a person against whom a winding up order is in force.



## Appendix C

## Initial remuneration notices

## **Remuneration statement**

**The Brink Company Pty Ltd (Administrators Appointed)**  
**ACN 628 948 694**  
**("the Company")**

## **Voluntary Administration**

### **Introduction**

This information sheet is to assist you with understanding how remuneration is calculated and paid in an administration.

While we may provide you with an estimate of the cost of the administration, the actual remuneration drawn will be subject to the approval of the creditors, committee of inspection or court, after we have provided a remuneration report in accordance with the requirements set down in the legislation and the Australian Restructuring Insolvency & Turnaround Association's (ARITA) Code of Professional Practice.

If we provide you with an estimate of the cost of the administration, this information will also be provided in our initial remuneration advice that we are required to provide to creditors. However, the actual remuneration that is approved by creditors may exceed this estimate, and this higher amount can be approved by the creditors, a committee of inspection or the court.

If you have paid or are paying money up front, or are providing the Administrators with an indemnity, for the purposes of our remuneration, you should be aware that approved remuneration may exceed this amount and can be paid from the assets of the Company.

### **Remuneration methods**

There are four basic methods that can be used to calculate the remuneration charged by an insolvency practitioner. They are:

1. **Time based / hourly rates**

This is the most common method. The total fee charged is based on the hourly rate charged for each person who carried out the work multiplied by the number of hours spent by each person on each of the tasks performed.

2. **Fixed fee**

The total fee charged is normally quoted at the commencement of the administration and is the total cost for the administration. Sometimes a practitioner will finalise an administration for a fixed fee.

3. **Percentage**

The total fee charged is based on a percentage of a particular variable, such as the gross proceeds of assets realisations.

4. **Contingency**

The practitioner's fee is structured to be contingent on a particular outcome being achieved.

## Method proposed

Given the nature of this administration we propose that our remuneration will be time based and calculated by hourly rates. This is because:

- It ensures creditors are only charged for work that is performed. Our time is recorded and charged in six minute increments and staff are allocated to duties according to their relevant experience and qualifications.
- The Administrators will be required to perform a number of tasks which do not relate to the realisation of assets. This includes statutory work, ASIC reporting and investigations and responding to general queries of creditors.
- The Administrators are currently unable to estimate with certainty the total amount of fees necessary to complete all tasks required and whether there will be any delays to the completion of the administration (such as whether or not meetings might be adjourned, which would extend the administration time).

Details of the hourly rates are included below.

Creditors will be advised of the proposed basis of remuneration in our initial remuneration advice to them.

## Estimate of the cost of the administration

We estimate that this administration will cost approximately \$150,000 (+GST) until the second meeting of creditors convened pursuant to s439A of the Corporations Act (**Second Meeting**), subject to the following variables which may have a significant effect on this estimate and that we are unable to determine until we have commenced the administration:

- The period of time the administration continues, noting that the convening period for holding the Second Meeting can be extended by Court order and creditor meetings may be adjourned. For the sake of clarity, the above cost estimate does not include any extension of the convening period.
- Dealing with the complexities of the trade-on of the business beyond our initial expectations
- Dealing with interested parties and the sale of business campaign beyond our initial expectations
- Managing stakeholders and dealing with any proposals we receive regarding the future of the Company
- Volume and complexity of enquiries from stakeholders generally
- Investigations into the causes of the Company's failure.

## Explanation of hourly rates

PricewaterhouseCoopers (PwC) supports ARITA's Code of Professional Practice for Insolvency Practitioners. In all matters undertaken by us we seek to charge an appropriate level of fees and expenses which are reflective of the complexity and demands of each assignment, and appropriate for our clients having regard to their objectives in seeking our assistance.

Accordingly, when seeking approval for remuneration we will provide the following details:

- type of work undertaken by us and the firm's staff
- breakdown of the activities undertaken
- relevant experience of each person
- number of hours charged by each person

- hourly rate charged for each person
- total remuneration claimed
- basis of recovering disbursements.

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

| <b>Title</b>                       | <b>Description</b>  | <b>Hourly rate<br/>(ex GST) \$</b> |
|------------------------------------|---|------------------------------------|
| Partner/<br>Appointee              | A registered liquidator or bankruptcy trustee who is a leading practitioner with extensive experience in all forms of insolvency administrations. A senior member of management with ultimate responsibility for the conduct of the administration.   | 850.00                             |
| Managing<br>Director/<br>Appointee | Generally, a registered liquidator or bankruptcy trustee with extensive experience in all forms of insolvency administrations. A senior member of management and, where a co-appointee, has responsibility for the conduct of the administration.   | 825.00                             |
| Director                           | Highly experienced in insolvency matters at a senior level, including managing complex administrations and supervising teams. Capable of deputising for the Appointees where required and may be qualified to accept appointments in his/her own right. Alternatively, may have specialist business or industry skills, and management experience at a senior level, or a combination of skills.                                | 765.00                             |
| Senior Manager                     | Experienced in insolvency matters with strong technical knowledge and commercial skills. Capable of supervising teams, having primary responsibility for small to medium matters, or complex aspects of larger matters. Answerable to the Appointees and/or senior team members. Alternatively, may have specialist business or industry skills, and management experience at a senior level, or a combination of skills.       | 680.00                             |
| Manager                            | Experienced in insolvency matters with well-developed technical and commercial skills. Capable of supervising smaller teams and can take day-to-day responsibility for smaller to medium matters, or aspects of more complex matters. Alternatively, may have management, business, or industry skills, or a combination of skills. Generally reports to senior team members, or directly to the Appointees on smaller matters. | 635.00                             |
| Senior Consultant                  | Generally a qualified accountant with postgraduate qualifications in insolvency subjects. Assists with planning and control of various aspects of the administration. Has day-to-day responsibility for overseeing fieldwork and can supervise staff. Has experience in larger and more complex administrations.  | 535.00                             |

|                        |   |        |
|------------------------|---|--------|
| Consultant             | Generally a qualified accountant. Assists with planning and control of various aspects of the administration but is primarily responsible for completing fieldwork under the supervision of more senior staff.    | 430.00 |
| Offshore Professional  | Generally a qualified accountant. Assists with planning and control of various aspects of the administration, but is primarily responsible for completing office work under the supervision of more senior staff. | 350.00 |
| Specialist             | Has specialist skills and experience in bookkeeping and other administrative tasks connected to statutory and other reporting obligations of the administration.  | 230.00 |
| Administration support | Has appropriate skills to provide administrative support to the team including high-speed and accurate document preparation and data entry, records control and management, and general data analytics.           | 230.00 |

\* The above rates are reviewed from time to time. The description of each grade is a general guide only. From time to time there may be persons employed who, because of their skills and experience, are employed in positions where they may not necessarily meet all of the above qualifications.

The hourly rates set out in the schedule are exclusive of GST and do not include disbursements.

### Acknowledgement

To acknowledge that you have received and understood the information that we have provided to you regarding the basis of remuneration, please sign and date this document.

**Sign:** \_\_\_\_\_

**Name:** \_\_\_\_\_

**Date:** \_\_\_\_\_

## Appendix D

## Creditor's approval to use of email form

**THE BRINK COMPANY PTY LTD  
(ADMINISTRATORS APPOINTED)  
("Company")**

**CREDITOR'S APPROVAL FOR THE USE OF EMAIL BY THE EXTERNAL ADMINISTRATORS WHEN  
GIVING OR SENDING CERTAIN NOTICES UNDER SECTION 600G  
OF THE CORPORATIONS ACT 2001**

Should you wish to receive notices and documents relating to the administration of the **Company** by email, please complete this form and return it to us at the address set out below.

☐

I/We authorise the External Administrators, acting on behalf of the Company, and their employees and agents to send and give notices and documents where such notices and documents may be sent by email to us using the email address provided below. This authorisation continues to apply whether the External Administrators are acting as voluntary administrators, deed administrators or liquidators of the Company.

|                          |  |
|--------------------------|--|
| <b>Signature:</b>        |  |
| <b>Creditor name:</b>    |  |
| <b>Creditor address:</b> |  |
| <b>Contact name:</b>     |  |
| <b>Position:</b>         |  |
| <b>Email Address:</b>    |  |
| <b>Contact number:</b>   |  |

Return completed form to: PricewaterhouseCoopers

By email:        amit.a.kotecha@au.pwc.com

By post:        2 Riverside Quay, SOUTHBANK VIC 3006

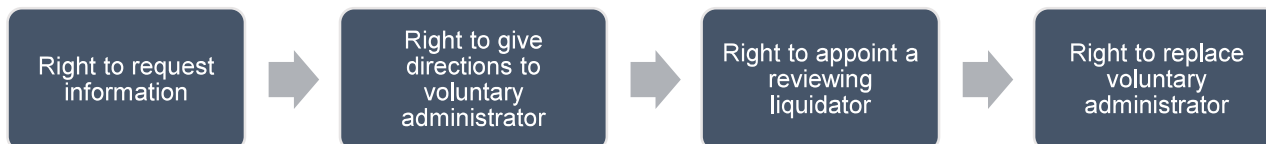
## Appendix E

## Information sheet – Creditor rights in Voluntary Administration



## Creditor Rights in Voluntary Administrations

As a creditor, you have rights to request meetings and information or take certain actions:



### Right to request information

Information is communicated to creditors in a voluntary administration through reports and meetings.

In a voluntary administration, two meetings of creditors are automatically held. You should expect to receive reports and notice of these meetings:

- The first meeting is held within 8 business days of the voluntary administrator's appointment. A notice of meeting and other information for this meeting will be issued to all known creditors.
- The second, or decision, meeting is usually held within 6 weeks of the appointment, unless an extension is granted. At this meeting, creditors will get to make a decision about the company's future. Prior to this meeting the voluntary administrator will provide creditors with a notice of the meeting and a detailed report to assist in making your decision.

Important information will be communicated to creditors prior to and during these meetings. Creditors are unable to request additional meetings in a voluntary administration.

Creditors have the right to request information at any time. A voluntary administrator must provide a creditor with the requested information if their request is 'reasonable', the information is relevant to the voluntary administration, and the provision of the information would not cause the voluntary administrator to breach their duties.

A voluntary administrator must provide this information to a creditor within 5 business days of receiving the request, unless a longer period is agreed. If, due to the nature of the information requested, the voluntary administrator requires more time to comply with the request, they can extend the period by notifying the creditor in writing.

### Requests must be reasonable.

#### They are not reasonable if:

- (a) complying with the request would prejudice the interests of one or more creditors or a third party
- (b) the information requested would be privileged from production in legal proceedings
- (c) disclosure would found an action for breach of confidence
- (d) there is not sufficient available property to comply with the request
- (e) the information has already been provided
- (f) the information is required to be provided under law within 20 business days of the request
- (g) the request is vexatious

If a request is not reasonable due to (d), (e) or (f) above, the voluntary administrator must comply if the creditor meets the cost of complying with the request.

Otherwise, a voluntary administrator must inform a creditor if their information request is not reasonable and the reason why.

## Right to give directions to voluntary administrator

Creditors, by resolution, may give a voluntary administrator directions in relation to a voluntary administration. A voluntary administrator must have regard to these directions, but they are not required to comply with the directions.

If a voluntary administrator chooses not to comply with a direction given by a resolution of the creditors, they must document their reasons for not complying.

An individual creditor cannot provide a direction to a voluntary administrator.

## Right to appoint a reviewing liquidator

Creditors, by resolution, may appoint a reviewing liquidator to review a voluntary administrator's remuneration or a cost or expense incurred in a voluntary administration. The review is limited to:

- remuneration approved within the six months prior to the appointment of the reviewing liquidator, and
- expenses incurred in the 12 months prior to the appointment of the reviewing liquidator.

The cost of the reviewing liquidator is paid from the assets of the voluntary administration, in priority to creditor claims.

An individual creditor can appoint a reviewing liquidator with the voluntary administrator's consent, however the cost of this reviewing liquidator must be met personally by the creditor making the appointment.

## Right to replace voluntary administrator

At the first meeting, creditors have the right to remove a voluntary administrator and appoint another registered liquidator to act as voluntary administrator.

A creditor must ensure that they have a consent from another registered liquidator prior to the first meeting if they wish to seek the removal and replacement of a voluntary administrator.

Creditors also have the opportunity to replace a voluntary administrator at the second meeting of creditors:

- If creditors vote to accept a proposed deed of company arrangement, they can appoint a different registered liquidator as the deed administrator.
- If creditors vote to place the company into liquidation, they can appoint a different registered liquidator as the liquidator.

It is however usual for the voluntary administrator to act as deed administrator or liquidator. It would be expected that additional costs would be incurred by an alternate deed administrator or liquidator to gain the level of knowledge of the voluntary administrator.

Like with the first meeting, a creditor must ensure that they have a consent from another registered liquidator prior to the second meeting if they wish to seek to appoint an alternative registered liquidator as deed administrator or liquidator.

**For more information, go to [www.arita.com.au/creditors](http://www.arita.com.au/creditors).  
Specific queries about the voluntary administration should be directed to the voluntary administrator's office.**

## Appendix F

## Information sheet – Committee of Inspection

## Information Sheet: Committees of Inspection

You have been elected to be, or are considering standing for the role of, a member of a Committee of Inspection (COI) in either a liquidation, voluntary administration or deed of company arrangement of a company (collectively referred to as an external administration).

This information sheet is to assist you with understanding your rights and responsibilities as a member of a COI.

### What is a COI?

A COI is a small group of creditors elected to represent the interests of creditors in the external administration. The COI advises and assists the external administrator and also has the power to approve and request certain things – this is discussed in more detail below.

Membership of the COI is a voluntary, unpaid position.

### Who can be elected to a COI?

To be eligible to be appointed as a member of a COI, a person must be:

- A creditor
- A person holding the power of attorney of a creditor
- A person authorised in writing by a creditor; or
- A representative of the Commonwealth where a claim for financial assistance has, or is likely to be, made in relation to unpaid employee entitlements.

If a member of the COI is a company, it can be represented by an individual authorised in writing to act on that creditor's behalf. It also allows the creditor to maintain its representation if a change in the individual is required

A COI usually has between 5 and 7 members, though it can have more, or less, depending on the size of the external administration.

A member of a COI can be appointed by:

- resolution at a meeting of creditors
- an employee or a group of employees owed at least 50% of the entitlements owed to employees of the company
- a large creditor or group of creditors that are owed at least 10% of the value of the creditors' claims,

If an employee or group of employees, or a large creditor or group of creditors, appoints a member to the COI, they cannot vote on the general resolution of creditors to appoint members to the COI. Each of these groups also have the power to remove their appointed member of the COI and appoint someone else.

If you are absent from 5 consecutive meetings of the COI without leave of the COI or you become an insolvent under administration, you are removed from the COI.

### What are the roles and powers of a COI?

A COI has the following roles:

- to advise and assist the liquidator, voluntary administrator or deed administrator (collectively referred to as the external administrator)
- to give directions to the external administrator
- to monitor the conduct of the external administration.

In respect of directions, the external administrator is only required to have regard to those directions. If there is a conflict between the directions of the COI and the creditors, the directions of the creditors prevail. If the external administrator chooses not to comply with the directions of the COI, the external administrator must document why.

A COI also has the power to:

- approve remuneration of the external administrator after the external administrator has provided the COI with a Remuneration Approval Report (a detailed report setting out the remuneration for undertaking the external administration)
- approve the use of some of the external administrator's powers in a liquidation (compromise of debts over \$100,000 and entering into contracts over 3 months)
- require the external administrator to convene a meeting of the company's creditors
- request information from the external administrator
- approve the destruction of the books and records of the external administration on the conclusion of the external administration
- with the approval of the external administrator, obtain specialist advice or assistance in relation to the conduct of the external administration
- apply to the Court for the Court to enquire into the external administration.

An external administrator is not required to convene a meeting of creditors if the request by the COI is unreasonable, or provide requested information if the request is unreasonable, not relevant to the administration or would cause the external administrator to breach their duties.

A request to convene a meeting of creditors is unreasonable if:

- it would substantially prejudice the interests of a creditor or third party
- there are insufficient funds in the external administration to cover the cost of the request
- a meeting of creditors dealing with the same matters has already been held or will be held within 15 business days, or
- the request is vexatious.

If a request for a meeting is reasonable, the external administrator must hold a meeting of creditors as soon as reasonably practicable.

A request for information is unreasonable if:

- it would substantially prejudice the interests of a creditor or third party
- the information would be subject to legal professional privilege
- disclosure of the information would be a breach of confidence
- there are insufficient funds in the external administration to cover the cost of the request
- the information has been provided or is required to be provided within 20 business days, or
- the request is vexatious.

If the request for information is not unreasonable, the external administrator must provide the requested information within 5 business days, but the law provides for further time in certain circumstances.

An external administrator must inform the COI if their meeting or information request is not reasonable and the reason why.

### How does the COI exercise its powers?

A COI exercises its powers by passing resolutions at meetings of the COI. To pass a resolution, a meeting must be convened and a majority of the members of the COI must be in attendance.

A meeting is convened by the external administrator by giving notice of the meeting to the members of the COI. Meetings of the COI can be convened at short notice. The external administrator must keep minutes of the meeting and lodge them with ASIC within one month of the end of the meeting.

ASIC is entitled to attend any meeting of a COI.

### What restrictions are there on COI members?

A member of a COI must not directly or indirectly derive any profit or advantage from the external administration. This includes by purchasing assets of the company or by entering into a transaction with the company or a creditor of the company. This prohibition extends to related entities of the member of the COI and a large creditor(s) that appoints a member to the COI.

Creditors, by resolution at a meeting of creditors, can resolve to allow the transaction. The member of the COI or the large creditor(s) that appoints a member to the COI is not allowed to vote on the resolution.

### Where can you get more information?

The Australian Restructuring Insolvency and Turnaround Association (ARITA) provides information to assist creditors with understanding external administrations and insolvency. This information is available from ARITA's website at [www.arita.com.au/creditors](http://www.arita.com.au/creditors).

ASIC provides information sheets on a range of insolvency topics. These information sheets can be accessed on ASIC's website at [www.asic.gov.au](http://www.asic.gov.au) (search "insolvency information sheets").

**For more information, go to [www.arita.com.au/creditors](http://www.arita.com.au/creditors).  
Specific queries about the liquidation should be directed to the liquidator's office.**

Appendix G

Proof of Debt Form

FORM 535

FORMAL PROOF OF DEBT OR CLAIM

To the Joint and Several Administrators of The Brink Company Pty Ltd (Administrators Appointed) ACN 628 948 694 (the Company)

1. This is to state that the Company was, on 8 May 2024 and still is, justly and truly indebted to:

.....('Creditor') (name of creditor)

.....of (full address)

for \$.....(amount inclusive of GST)

Particulars of the debt are:

| Date<br>(when the debt arose) | Consideration<br>(how debt arose and attach supporting documentation) | Assigned debt<br>(was this debt assigned to you?) | Amount \$<br>(if an assigned debt, the consideration paid) |
|-------------------------------|---|---|--|
|                               |   |   |  |

I have attached the following documents to substantiate my claim (*tick as many as appropriate*):

- ☐ Invoices                      ☐ Judgement from Court                      ☐ Letters of demand                      ☐ Orders from Company  
☐ Monthly statements                      ☐ Statutory demand                      ☐ Credit application                      ☐ Guarantee from Company  
☐ Assignment of debt                      ☐ Other – please  
specify.....

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

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

| Date | Drawer | Acceptor | Amount A\$ | Due Date |
|------|--------|----------|------------|----------|
|      |        |          |            |          |

3. Select one of the following options:

- ☐ I am **not** a related creditor of the Company  
☐ I am a related creditor of the Company (eg director, relative of director, related company)

4. Signatory (*select one of the following options*)

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

Signature: ..... Date: .....

Name: ..... Phone number: .....

Address: .....

**FUTURE COMMUNICATION BY EMAIL**

Do you elect to receive electronic notification of future notices and documents from this office by email in accordance to Section 600G of the Corporations Act 2001?

☐ Yes, send all future notices to this email address:

☐ No



# Appendix H Proxy Form

**APPOINTMENT OF PROXY  
CREDITORS MEETING**

**THE BRINK COMPANY PTY LTD. - (ADMINISTRATORS APPOINTED)**  
**ACN 628 948 694 (the Company)**

**A. Appointment of a proxy**

I/We.....  
(If a company, strike out "I" and set out full name of the company)

of .....  
(address)

a creditor of the Company appoint .....  
as my/our proxy, or in his/her absence....., to vote at the meeting of creditors  
to be held on, or at any adjournment of that meeting.

**B. Voting directions**

**Option 1:** ☐ If appointed as a general proxy, as he/she determines on my/our behalf  
(Please proceed to section C ie do not complete the table below)

**and/or**

**Option 2:** ☐ If appointed as a special proxy in the manner set out below:  
(Please complete the table below before proceeding to section C)

|   | <b>For</b>               | <b>Against</b>           | <b>Abstain</b>           |
|---|--------------------------|--------------------------|--------------------------|
| <b>Resolution 1: Appoint a committee of inspection</b>                        | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <b>Resolution 2: Replace the Joint and Several Administrators from office</b> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

**C. Signature** (in accordance with Sections 127 or 250D of the Corporations Act 2001)

If the creditor is an individual

.....

If the creditor is a Company

.....

Director/Company Secretary

.....

Print name

DATED this      day of      2024.

## CERTIFICATE OF WITNESS

**Please note:** *This certificate is to be completed only if the person giving the proxy is blind or incapable of writing. The signature of the creditor, contributory, debenture holder or member must not be witnessed by the person nominated as proxy.*

I .....of .....  
certify that the above instrument appointing a proxy was completed by me in the presence of and at the request of the person appointing the proxy and read to him or her before he or she signed or marked the instrument.

Signature of Witness: .....

Place of residence: .....

Dated: .....

Appendix I

Nomination Form

**THE BRINK COMPANY PTY. LTD.  
(ADMINISTRATORS APPOINTED)  
ACN 628 948 694 (the Company)  
BRINK DRINKS**

**NOMINATION FORM – COMMITTEE OF INSPECTION**

Please complete the details below if you would like to be nominated to be as a member of the Committee of Inspection (COI) if one is formed at the forthcoming meeting of creditors. This form must be returned to [amit.a.kotecha@au.pwc.com](mailto:amit.a.kotecha@au.pwc.com) no later than Thursday, 16 May 2024.

An information sheet about the rights and responsibilities as a member of the COI prepared by the Australian Restructuring Insolvency & Turnaround Association (ARITA) is attached. We recommend that interested creditors read the information sheet. There are also restrictions placed on COI members. Please direct any queries to [amit.a.kotecha@au.pwc.com](mailto:amit.a.kotecha@au.pwc.com).

|                          |  |
|--------------------------|--|
| <b>Signature:</b>        |  |
| <b>Creditor name:</b>    |  |
| <b>Creditor address:</b> |  |
| <b>Contact name:</b>     |  |
| <b>Position:</b>         |  |
| <b>Email Address:</b>    |  |
| <b>Contact number:</b>   |  |

Return completed form to: PricewaterhouseCoopers

By email: [amit.a.kotecha@au.pwc.com](mailto:amit.a.kotecha@au.pwc.com)

By post: 2 Riverside Quay, SOUTHBANK VIC 3006

[www.pwc.com.au](http://www.pwc.com.au)