

13 June 2019

AUSMART SERVICES PTY LTD (IN LIQUIDATION) ACN 162 278 953  
EZYROL TRADING PTY LTD (IN LIQUIDATION) ACN 165 223 932  
GAMMA ONE PTY LTD (IN LIQUIDATION) ACN 166 675 172  
GOYX PTY LTD (IN LIQUIDATION) ACN 611 357 914  
MONDEX GROUP PTY LTD (IN LIQUIDATION) ACN 165 224 064  
NEWING GLACIER PTY LTD (IN LIQUIDATION) ACN 600 515 857  
ROCUBE HOLDING PTY LTD (IN LIQUIDATION) ACN 165 224 028  
SPARK LABOUR SOLUTIONS PTY LTD (IN LIQUIDATION) ACN 601 010 315  
(COLLECTIVELY "THE COMPANIES")

### INITIAL INFORMATION FOR CREDITORS

The purpose of this document is to provide you with information about the liquidation of the Companies and your rights as a creditor.

#### Notification of appointment

Messrs Ross Blakeley, Quentin Olde and I were appointed as joint and several Provisional Liquidators of the Companies on 28 November 2018 by Order of the Federal Court of Australia ("**Court**"). The Court ordered at this time that the Provisional Liquidators amongst other things, take possession of, collect and protect any assets of the Companies.

The Court made further orders on 20 December 2018 that the Provisional Liquidators provide a report to the Court on the following:

- a) The identification of the assets and liabilities of the Companies;
- b) An opinion as to the solvency of the Companies;
- c) The likely return to creditors of the Companies;
- d) Any other information necessary to enable the financial position of the Companies to be assessed;
- e) Any suspected contravention of the *Corporations Act* 2001 ("**the Act**") by the Companies; and
- f) Any suspected contravention of the Act and/or any other legislation by any current or former directors and/or officers of the Companies.

The Provisional Liquidators' Report ("**Report**") was submitted to the Court on 13 March 2019.

The Court considered the Report and ordered on 15 May 2019 that Mr Blakeley, Mr Joseph Hansell and I be appointed joint and several Liquidators of the Companies on grounds of insolvency, save for Gamma One Pty Ltd (In Liquidation), which we were appointed on just and equitable grounds.

A copy of the Declaration of Independence, Relevant Relationships and Indemnities ("**DIRRI**") in respect to the relevant Company is attached at Appendix A. The DIRRI assists you to understand any relevant relationships that we have, and any indemnities or upfront payments that have been provided to us.

We have considered each relationship and it is our opinion that none of the relationships disclosed in the DIRRI result in a conflict of interest or duty or affect our independence.

### **What is a Court Liquidation?**

A court liquidation is where an order to place a Company into liquidation is made by the court, usually on application by a creditor where the Company has not paid its outstanding debt. Usually this means that the Company is insolvent.

According to the records, you may be a creditor of one of the Companies.

Information regarding the liquidation process is contained in the Australian Securities and Investments Commission (“ASIC”) information sheet included at Appendix B titled *“Insolvency information for directors, employees, creditors and shareholders”*.

### **What happens to your debt?**

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

In the event that there are monies to be distributed to creditors in the future, you will need to submit a formal proof of debt form, which is attached at Appendix C. A proof of debt is also used for voting purposes at any meetings of creditors.

If you have leased any of the Companies property, have a retention of title claim or hold a Personal Property Security in relation to any of the Companies, please contact our office as soon as possible. Further information is attached at Appendix D.

### **Your rights as a creditor**

Information regarding your rights as a creditor is provided in the information sheet included at Appendix E.

## Statutory Information

The following summarises the Companies, their directors and other relevant information:

Company	Information
Ausmart Services Pty Ltd	Director: Meiming Zheng Date of Registration: 7 February 2013 Principal Place of Business: Unit 27, 1-5 Harrow Road, AUBURN NSW 2144 Registered Office: Unit 27, 1-5 Harrow Road, AUBURN NSW 2144
Ezyrol Trading Pty Ltd	Director: Yun Feng Shi Date of Registration: 8 August 2013 Principal Place of Business: 13 Ramel Way, PAKENHAM VIC 3810 Registered Office: 13 Ramel Way, PAKENHAM VIC 3810
Gamma One Pty Ltd	Director: Huazhu Xue Date of Registration: 8 November 2013 Principal Place of Business: 30 Parker Street, SCONE NSW 2337 Registered Office: 30 Parker Street, SCONE NSW 2337
Goyx Pty Ltd	Director: Xia You Date of Registration: 16 March 2016 Principal Place of Business: 63 Cardigan Street, AUBURN NSW 2144 Registered Office: 63 Cardigan Street, AUBURN NSW 2144
Mondex Group Pty Ltd	Director: Meiming Zheng Date of Registration: 8 August 2013 Principal Place of Business: Unit 27, 1-5 Harrow Road, AUBURN NSW 2144 Registered Office: Unit 27, 1-5 Harrow Road, AUBURN NSW 2144
Newing Glacier Pty Ltd	Director: Zu Neng Shi Date of Registration: 3 July 2014 Principal Place of Business: 47A Rodd Street, BIRRONG NSW 2143 Registered Office: 47A Rodd Street, BIRRONG NSW 2143
Rocube Holding Pty Ltd	Director: Zu You Shi Date of Registration: 8 August 2013 Principal Place of Business: 7 West Terrace, MURRAY BRIDGE SA 5253 Registered Office: 7 West Terrace, MURRAY BRIDGE SA 5253
Spark Labour Solutions Pty Ltd	Director: Lisen Fang Date of Registration: 31 July 2014 Principal Place of Business: 31 Albert Road, BEECROFT NSW 2119 Registered Office: 31 Albert Road, BEECROFT NSW 2119

## Background

Investigations conducted by the Petitioning Creditor for the winding up of the Companies, the Australian Taxation Office (“ATO”), identified that the Companies had potentially engaged in a tax avoidance scheme to underreport their taxation liabilities.

As advised above, the Provisional Liquidators were appointed over the Companies on 28 November 2018 and at the time of the appointment, the ATO were owed approximately \$38 million however this amount is expected to increase.

As instructed by the Court, the Provisional Liquidators took immediate steps to preserve the assets of the Companies and made various enquiries to assist their investigations in order to provide the Report to the Court and Plaintiff, the Deputy Commissioner of Taxation.

In the course of their investigations, the Provisional Liquidators have also had regard to the books and records of the Companies, the interviews with Mr Zu Neng Shi (also known as Scott Shi) and Mr Yun Feng Shi (also known as Michael Shi), staff and materials contained in the application of the ATO for the appointment of Provisional Liquidators.

As at the date of the Provisional Liquidation, there were four trading companies (Ausmart Services Pty Ltd, Ezyrol Trading Pty Ltd, Mondex Group Pty Ltd and Newing Glacier Pty Ltd) ("**Trading Companies**"). The core business of the Trading Companies was the provision of labour for hire to abattoirs in New South Wales and Victoria.

The Trading Companies held contracts with 21 abattoirs, for the supply of a total of 838 employees to the abattoirs. The business is operated out of offices located at Unit 27, 1-5 Harrow Road, AUBURN 2144 NSW.

Further, Goyx Pty Ltd previously held a contract with an abattoir in Queensland and Rocube Holding Pty Ltd and Ausmart Services Pty Ltd had previously applied for licences to provide labour hire services in Queensland, however, their request was refused on the basis that they have a "history of serious non-compliance with taxation and superannuation laws".

The Companies have now ceased to trade.

### **Steps completed since appointment**

Pursuant to the orders dated 27 November 2018, the Provisional Liquidators took immediate steps to take possession of, collect and protect any assets of the Companies and inform themselves as to the structure, operations and any contraventions of laws by the Companies.

In this regard, the Provisional Liquidators undertook the following steps:

- a) Notified all major banking institutions of the appointment and requested they freeze any amounts held;
- b) Notified insurers of the appointment enacting immediate insurance cover;
- c) Forwarded notices to all directors of the Companies at their address listed with ASIC requesting they prepare and submit a Report on Company Affairs and Property and deliver up any company books and records in their possession;
- d) Attended the Companies' Auburn office to take possession of any of the Companies books and records not collected by the Australian Federal Police ("**AFP**");
- e) Instructed plant and equipment agents to collect vehicles registered in the Companies' names at various locations;
- f) Prepared and lodged the required appointment documents with ASIC;
- g) Made contact with Mr Zu Neng Shi, notified him of the appointments and requested his assistance to understand the Companies' business operations and financial positions; and
- h) Met with Mr Yun Feng Shi on 28 November 2018 to advise of appointment of Provisional Liquidators.

Upon their appointment, the Provisional Liquidators undertook an immediate review of the Companies' businesses including:

- a) conducting an initial telephone interview with the Trading Companies' Human Resource Manager, Ms Nancy Chen, Mr Zu Neng Shi and subsequently Mr Chang Lui (Mr Zu Neng Shi's lawyer) on the day of appointment to advise of the appointment and obtain an understanding of the current position of the Companies. All individuals refused to assist the Provisional Liquidators;
- b) reviewing information provided by the ATO to determine the likely trading and employing status of each entity;
- c) reviewing bank statements to identify further potential abattoirs;
- d) made initial contact with abattoirs and meat processing facilities identified through the initial assessment to determine the current trading relationship, number of employees currently based at the premises, type of work undertaken, visa status, likely timing and value of wage payments, and other relevant factors;
- e) liaising with the ATO regarding the provision of records seized immediately prior to the appointment of Provisional Liquidators by the AFP under warrant;
- f) seeking advice from lawyers engaged by the Provisional Liquidators on this matter, Mills Oakley, as to their duties as Provisional Liquidators;
- g) correspondence to abattoirs identified as having an ongoing relationship with the Trading Companies to formally advise of the appointment of Provisional Liquidators and to set out intentions with respect to the immediate future of the Companies' business; and
- h) forwarding notice of the appointment to all employees in English, Mandarin and Korean.

The Provisional Liquidator's primary objective in engaging with abattoirs was to as much as possible, preserve the business and assets of the Companies whilst our investigations were conducted.

Despite not having the cooperation of the Directors of the Trading Companies, the Provisional Liquidators took immediate steps to assess the Trading Companies' financial position and trading history to ascertain whether the supply of labour could continue under the control of the Provisional Liquidators and engaged with the abattoirs accordingly.

In engaging with the abattoirs, the Provisional Liquidators:

- a) requested the abattoirs provide details of the labour currently employed in their business and provide evidence of their rights to work in Australia;
- b) asked the abattoirs to distribute initial notifications to employees to make them aware of the appointment;
- c) sought to obtain an understanding of the current debtor position of each Company, noting that no records were available to independently substantiate the position at this time;
- d) requested that abattoirs obtain from the workforce details about when next wage payments were due, noting that this process was normally conducted by the Trading Companies without any input from the abattoirs themselves;
- e) where wage payments were due, informed the abattoirs that the Provisional Liquidators were currently not in a position to meet those payments and negotiated for immediate payments and associated on costs to be met by abattoirs directly;

- f) spoke with alternative labour hire providers to determine whether an interim transfer of the workforce would be possible; and
- g) put a range of options to the abattoirs for the future of the workforce used in their businesses, which primarily were focused around the Provisional Liquidators continuing to trade. If this was not possible, other options were discussed such as transferring the workforce to another labour hire provider on an interim basis or to the abattoirs directly.

During this engagement, the majority of abattoirs commenced taking independent and active steps to employ the employees directly to ensure continuation of the relevant workforce.

Therefore, with the number of abattoirs taking their own steps to take over employees and the effective total number of employees of the Trading Companies declining, it was the Provisional Liquidators' view that it was in the interest of all parties, that the Provisional Liquidators assist and cooperate with the abattoirs to transfer the remaining employees to them.

The initial assessment and engagement with the abattoirs also led the Provisional Liquidators to draw the conclusion that the Trading Companies' businesses were not viable going forward.

As detailed above, following certain abattoirs taking their own steps to employ the employees directly and the Provisional Liquidators' initial analysis of trading, it was the Provisional Liquidators' view that it was in the best interest of most stakeholders that they facilitate the transfer of the remaining employees to the abattoirs directly.

Therefore, as at the date of the Liquidation, the Trading Companies are not employing labour hire workers, and the businesses have ceased to trade.

### **What happens next?**

The Liquidators will provide a further update to creditors on the progress of the liquidation of the Companies in the Liquidators' Statutory Report to be sent to creditors within three months of the Liquidators' appointment pursuant to Section 70-40 of the Insolvency Practice Rules.

We will proceed with the liquidation, including:

- recovering and selling any available property;
- investigating the Companies' affairs; and
- reporting to the corporate regulator, ASIC.

If we receive a request for a meeting that complies with the guidelines set out in the creditor rights information sheet, we will hold a meeting of creditors.

We will write to you within three months of our appointment in more detail advising whether a dividend is likely and update you on the progress of our investigations.

We may write to you again after that with further information on the progress of the liquidation.

## Costs of the liquidation

Section 60-16 of the Insolvency Practice Schedule permits the remuneration of a provisional liquidator to be approved by a resolution of a committee of inspection, creditors or by the Court.

In this regard, to avoid costs of making an application to the Court in respect to the Provisional Liquidators remuneration, we intend to seek approval from the Companies' creditors and we will report to you further providing more detail and requesting approval.

Included at Appendix F is our Initial Remuneration Notice in respect to the liquidation of the Companies. This document provides you with information about how we propose to be paid for undertaking the liquidation.

We may write and ask that you approve our remuneration for the work that we do in completing the liquidation. If we do, we will provide you with detailed information so that you can understand what tasks we have undertaken and the costs of those tasks.

## Where can you get more information?

The Australian Restructuring Insolvency and Turnaround Association ("**ARITA**") provides information to assist creditors with understanding liquidations and insolvency.

This information is available from ARITA's website at [arita.com.au/creditors](http://arita.com.au/creditors).

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

Statutory notices and advertisements about the Companies will be published on ASIC's Published Notices website at [www.insolvincynotices.asic.gov.au](http://www.insolvincynotices.asic.gov.au).

Please contact this office on (03) 9604 0655, if you have any queries in relation to the enclosed documents, or the liquidation generally.

Dated this 13<sup>th</sup> day of June 2019.



**Paul Allen**  
**Liquidator**

Encs.

## LIST OF APPENDICES

No	Appendix	Description
1	Appendix A	Declaration of Independence, Relevant Relationships and Indemnities ( <b>DIRRI</b> ).
2	Appendix B	ASIC information sheet titled <i>"Insolvency information for directors, employees, creditors and shareholders"</i> .
3	Appendix C	Form 535 – Formal Proof of Debt or Claim form.
4	Appendix D	Important statements for all creditors and suppliers.
5	Appendix E	ARITA information sheet titled <i>"Creditor Rights in Liquidations"</i> .
6	Appendix F	The Liquidators' Initial Remuneration Notice.

## Annexure A

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**MONDEX GROUP PTY LIMITED (IN LIQUIDATION)**

**ACN 165 224 064 (“THE COMPANY”)**

**DECLARATION OF INDEPENDENCE, RELEVANT RELATIONSHIPS, AND INDEMNITIES (“DIRRI”)**

Practitioner(s) appointed to an insolvent entity are required to make declarations as to:

- A. Their independence generally;
- B. 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.

This declaration is made in respect of us, Paul Anthony Allen, Ross Andrew Blakeley and Joseph Ronald Hansell, our fellow Senior Managing Directors/Managing Directors, FTI Consulting (Australia) Pty Ltd (“**FTI Consulting**” or “**Firm**”) and associated entities.

**A. INDEPENDENCE**

We, Paul Anthony Allen, Ross Andrew Blakeley and Joseph Ronald Hansell of FTI Consulting have undertaken a proper assessment of the risks to our independence prior to accepting the appointment as Joint and Several Liquidators of the Company 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**

On 9 March 2017, Mr Allen and Mr Blakeley met with representatives of the Australian Taxation Office (“**ATO**”), the Petitioning Creditor, where a discussion was held regarding the possible application by the ATO for the appointment of provisional liquidators to the Company.

Between the period 9 March 2017 and 2 November 2018, several telephone discussions were held between Mr Allen, Mr Blakeley and representatives of the ATO discussing the background and financial affairs of the Company. A meeting was held on 9 June 2017 that discussed same.

On 23 November 2018, a representative of the Australian Government Solicitor forwarded Mr Allen an email formally requesting that he provide a consent to act form to potentially act as provisional liquidator of the Company.

On 23 November 2018, Mr Allen, Mr Blakeley and Mr Quentin Olde provided the ATO with a signed consent to act as provisional liquidators of the Company.

On 28 November 2018, Mr Allen, Mr Blakeley and Mr Olde were appointed as Joint and Several Provisional Liquidators of the Company pursuant to an order made by the Federal Court of Australia.

During our appointment as provisional liquidations, Mr Allen and Mr Blakeley met with representatives of the ATO to gather information regarding the Companies' affairs to assist in their investigations as provisional liquidators.

On 6 May 2019, Mr Allen, Mr Blakeley and Mr Hansell provided a formal consent to act to the Australian Government Solicitor to potentially be appointed as Liquidators of the Company.

On 15 May 2019, Mr Allen, Mr Blakeley and Mr Hansell were appointed Liquidators of the Company.

We have received no remuneration for time incurred in preparing for the appointments as provisional liquidators and liquidators.

Various information regarding the Companies was provided by the ATO in person and by email as part of our role as provisional liquidators. Further, additional correspondence outside of those listed above occurred, which were immaterial in nature and related primarily to the scheduling of meetings and teleconferences.

These discussions and our appointment as provisional liquidators do not affect our independence for the following reasons:

- a) Practitioners need to be approached prior to accepting an appointment as provisional liquidators and liquidators to enable conflict checks to be conducted and for the orderly preparation of an appointment, including formally consenting to act. It is not considered that such actions result in a conflict or represent an impediment to accepting the appointment;
- b) The nature of the limited pre-appointment involvement is such that it would not be subject to review and challenge during our appointment as liquidators;
- c) No interaction with the Company Director, any security interest holder, or other creditors (other than the ATO) occurred prior to our appointments. Specifically, no advice has been given to the Director in their capacity as Director of the Company or in relation to their personal capacity;
- d) The limited pre-appointment involvement, and our involvement as Provisional Liquidators and liquidators, will not negatively influence our ability to be able to fully comply with the statutory and fiduciary obligations associated with our appointment as Liquidators of the Company in an objective and impartial manner; and
- e) The giving of a consent to act does not result in any duty owed to that applicant that would conflict with our duties under the Act.

We have provided no other information or advice to the Company, the Director, the applicant or any creditors prior to our original appointment as Provisional Liquidators beyond that outlined in this DIRRI.

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

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

Name	Nature of relationship	Reasons
<p>Ausmart Services Pty Ltd;  Ezyrol Trading Pty Ltd;  Gamma One Pty Ltd;  Goyx Pty Ltd;  Newing Glacier Pty Ltd;  Rocube Holding Pty Ltd; and  Spark Labour Solutions Pty Ltd.</p>	<p>Paul Allen and Ross Blakeley, and our former colleague Quentin Olde, were appointed Joint and Several Provisional Liquidators of the Companies on 28 November 2018.</p> <p>On 15 May 2019, Paul Allen, Ross Blakeley and Joseph Hansell were appointed Joint and Several Liquidators of the Companies.</p>	<p>Intercompany dealings may have occurred between the Companies. The extent and nature of these transactions and any debts owed between the Company and the Companies have not yet been fully investigated and determined.</p> <p>Being able to administer the liquidation of each of the Companies has the benefit of providing full control and insight over the intermingled affairs of the group. This also has efficiencies and synergies which may save costs and provide other benefits for all stakeholders across the Companies.</p> <p>At the time of our appointment, we were not aware of any conflicts of interest between the Companies existing due to the liquidations, nor is it considered any have subsequently arisen.</p> <p>Should such a conflict arise, which is not anticipated, we will keep creditors informed and take appropriate action to ensure no party is unfairly prejudiced.</p> <p>Examples of such conflicts may include potential legal claims or adjudicating on inter group debts.</p> <p>If such issues arise, steps the Liquidators may take to avoid any perceived or actual conflict include seeking independent legal advice</p>

Name	Nature of relationship	Reasons
Australian Taxation Office (“ATO”)	<p data-bbox="549 259 933 618">Plaintiff in the Court application to wind up the Companies.</p> <p data-bbox="549 685 954 869">Employees of FTI Consulting are from time to time requested to consent to act as Liquidators and Trustees in Bankruptcy on matters where the ATO is the petitioning creditor.</p> <p data-bbox="549 936 954 1160">Similar to this situation, we have also been requested to consent to act by the ATO on matters where they intend proposing alternative appointees to replace the incumbent appointees.</p> <p data-bbox="549 1227 954 1480">Additionally, employees of FTI Consulting are also from time to time appointed as Liquidators, Trustees in Bankruptcy, Receivers and Managers, and Voluntary Administrators where the ATO is a creditor in those administrations.</p>	<p data-bbox="986 259 1369 528">from different lawyers for each company, or appointing an independent arbitrator or special purpose liquidator to act independently on behalf of the relevant company dealing with the issue.</p> <p data-bbox="986 551 1393 898">It is very common that the ATO is a creditor in external insolvency administrations. We have not identified any issue in relation to this relationship that would give rise to a conflict in undertaking the Liquidation of the Company. This relationship will not impede our independence.</p>

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

As detailed above, Mr Allen, Mr Blakeley and Mr Olde were appointed Provisional Liquidators to the Company on 28 November 2018. The appointment ceased on 15 May 2019 when the Company was ordered to be wound up by the Federal Court of Australia. No remuneration has been paid to the Provisional Liquidators to date.

We do not believe a conflict arises as the duties of a provisional liquidator are subject to the Court Orders made with the primary roles to collect and protect the assets of the Company and produce a report to the Court.

**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 Company, an associate of the Company, a former insolvency practitioner appointed to the Company or any person or entity that has security over the whole or substantially whole of the Company's property that should be disclosed.

**C. INDEMNITIES AND UP-FRONT PAYMENTS**

The ATO has indicated that they will provide an indemnity to the Liquidators to cover the Provisional Liquidators' fees and expenses should there be no recoveries in the Liquidation. No formal arrangement has been entered into to date with regard to the provision of this indemnity.

We have not received any other indemnities or up-front payments in respect of our remuneration or disbursements.

Dated: 13 June 2019



Paul Allen



Ross Blakeley



Joseph Hansell

**NOTE:**

1. If circumstances change, or new information is identified, I am/we are required under the Corporations Act 2001 and the ARITA Code of Professional Practice to update this Declaration and provide a copy to creditors with my/our next communication as well as table a copy of any replacement declaration at the next meeting of 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.

## Annexure B

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ASIC

Australian Securities & Investments Commission

## Insolvency information for directors, employees, creditors and shareholders

ASIC has 11 insolvency information sheets to assist you if you're affected by a company's insolvency and have little or no knowledge of what's involved.

These plain language information sheets give directors, employees, creditors and shareholders a basic understanding of the three most common company insolvency procedures—liquidation, voluntary administration and receivership. There is an information sheet on the independence of external administrators and one that explains the process for approving the fees of external administrators. A glossary of commonly used insolvency terms is also provided.

The Insolvency Practitioners Association (IPA), the leading professional organisation in Australia for insolvency practitioners, endorses these publications and encourages its members to make their availability known to affected people.

### List of information sheets

- INFO 41 *Insolvency: a glossary of terms*
- INFO 74 *Voluntary administration: a guide for creditors*
- INFO 75 *Voluntary administration: a guide for employees*
- INFO 45 *Liquidation: a guide for creditors*
- INFO 46 *Liquidation: a guide for employees*
- INFO 54 *Receivership: a guide for creditors*
- INFO 55 *Receivership: a guide for employees*
- INFO 43 *Insolvency: a guide for shareholders*
- INFO 42 *Insolvency: a guide for directors*
- INFO 84 *Independence of external administrators: a guide for creditors*
- INFO 85 *Approving fees: a guide for creditors*

### Getting copies of the information sheets

To get copies of the information sheets, visit ASIC's website at [www.asic.gov.au/insolvencyinfosheets](http://www.asic.gov.au/insolvencyinfosheets). The information sheets are also available from the IPA website at [www.ipaa.com.au](http://www.ipaa.com.au). The IPA website also contains the IPA's Code of Professional Practice for Insolvency Professionals, which applies to IPA members.

**Important note:** The information sheets contain a summary of basic information on the topic. It is not a substitute for legal advice. Some provisions of the law referred to may have important exceptions or qualifications. These documents may not contain all of the information about the law or the exceptions and qualifications that are relevant to your circumstances. You will need a qualified professional adviser to take into account your particular circumstances and to tell you how the law applies to you.

## Annexure C

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**FORM 535 - FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)**

Subregulation 5.6.49(2)

Corporations Act 2001

**MONDEX GROUP PTY LTD (IN LIQUIDATION) ACN 165 224 064 (THE 'COMPANY')**

To the Liquidators of Mondex Group Pty Ltd

1. This is to state that the Company was on 28 November 2018, and still is, justly and truly indebted to:

Name of Creditor: \_\_\_\_\_

Address of Creditor: \_\_\_\_\_

Debt Owed: \$ \_\_\_\_\_ and \_\_\_\_\_ cents

Particulars of the debt are:

Date	Consideration <i>(state how the debt arose)</i>	Amount <i>(incl. GST)</i> \$ c	GST \$ c	Remarks <i>(include details of voucher substantiating payment)</i>

2. To my knowledge or belief the creditor has not, nor has any person by the creditor's order, had or received any satisfaction or security for the sum or any part of it except for the following: *(insert particulars of all securities held. If the securities are on the property of the company, assess the value of those securities. If any bills or other negotiable securities are held, show them in a schedule in the following form.)*

Date	Drawer	Acceptor	Amount	Due Date

3. \* I am the creditor personally OR

3. \* I am employed by the creditor and authorised in writing by the creditor to make this statement OR

3. \* I am the creditor's agent authorised in writing to make this statement in writing.

\* Omit if inapplicable

I know that the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, remains unpaid and unsatisfied.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Name of authorised Person

\_\_\_\_\_  
Signature of Authorised person

\_\_\_\_\_  
Occupation

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email

\_\_\_\_\_  
Telephone

I/we nominate to receive electronic notification of notices or documents by email at the following address:

Email address: \_\_\_\_\_

## Annexure D

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## **IMPORTANT STATEMENTS FOR ALL CREDITORS AND SUPPLIERS**

### **NO ADOPTION OF ANY CONTRACTS OR ASSUMPTION OF LIABILITIES OF THE COMPANIES BY THE LIQUIDATOR**

The Liquidators are not personally adopting, and will not adopt, any agreement or contract that you may have with the Companies. The Liquidators will not be liable for any liability of the Companies under any agreement or contract with you. Any payments made by the Liquidators for any goods or services does not constitute, nor in any way imply, adoption of any contract or an assumption of any liability of the Companies by the Liquidators.

### **PARTIES WHO ARE REQUIRED TO CONTACT US**

Please contact us as soon as possible if you:

- Have supplied any goods or collateral to the Companies and you have registered a security interest in such property on the Personal Property Security Register (“PPSR”);
- Are otherwise claiming security or proprietary rights in any asset or property owned by or in possession of the Companies;
- Lease or hire goods or property to the Companies;
- Are claiming a lien over property of the Companies; and/or
- Have commenced legal proceedings against the Companies.

### **PARTIES WITH PMSI, RETENTION OF TITLE AND CONSIGNMENT CLAIMS OVER PROPERTY**

Parties with these claims are requested as soon as possible to give us details of the items supplied to the Companies (including any features by which that property is able to be identified, for example - serial number/s) and which remain unpaid for, and provide details of your registration on the PPSR with all relevant supporting documents.

### **GENERAL STATEMENT**

The Liquidators will consider the information and details provided to him in support of any claims. Where a claim is valid and not disputed, the Liquidator will comply with his obligations at law. This should not be interpreted as, in any way, limiting or restricting the rights of the Liquidator or the Companies, whose rights are expressly reserved.

Please note the Liquidators may require payment of his reasonable expenses and remuneration incurred in the identification, preservation and distribution of property to secured parties, purchasers and/or other persons that the property belongs to. This also includes circumstances where property (such as inventory, for example) is made available for collection.

Affected parties should seek their own advice as applicable and as they deem appropriate.

## Annexure E

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# Creditor Rights in Liquidations

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



## Right to request a meeting

In liquidations, no meetings of creditors are held automatically. However, creditors with claims of a certain value can request in writing that the liquidator hold a meeting of creditors.

A meeting may be requested in the first 20 business days in a creditors' voluntary liquidation by  $\geq 5\%$  of the value of the debts held by known creditors who are not a related entity of the company.

Otherwise, meetings can be requested at any other time or in a court liquidation by:

- $> 10\%$  but  $< 25\%$  of the known value of creditors on the condition that those creditors provide security for the cost of holding the meeting
- $\geq 25\%$  of the known value of creditors
- creditors by resolution, or
- a Committee of Inspection (this is a smaller group of creditors elected by, and to represent, all the creditors).

If a request complies with these requirements and is 'reasonable', the liquidator must hold a meeting of creditors as soon as reasonably practicable.

## Right to request information

Liquidators will communicate important information with creditors as required in a liquidation. In addition to the initial notice, you should receive, at a minimum, a report within the first three months on the likelihood of a dividend being paid.

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

A liquidator 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 liquidator 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:

Both meetings and information:

- (a) complying with the request would prejudice the interests of one or more creditors or a third party
- (b) there is not sufficient available property to comply with the request
- (c) the request is vexatious

Meeting requests only:

- (d) a meeting of creditors dealing with the same matters has been held, or will be held within 15 business days

Information requests only:

- (e) the information requested would be privileged from production in legal proceedings
- (f) disclosure would found an action for breach of confidence
- (g) the information has already been provided
- (h) the information is required to be provided under law within 20 business days of the request

If a request is not reasonable due to (b), (d), (g) or (h) above, the liquidator must comply with the request if the creditor meets the cost of complying with the request.

Otherwise, a liquidator must inform a creditor if their meeting or information request is not reasonable and the reason why.

## Right to give directions to liquidator

Creditors, by resolution, may give a liquidator directions in relation to a liquidation. A liquidator must have regard to these directions, but is not required to comply with the directions.

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

An individual creditor cannot provide a direction to a liquidator.

## Right to appoint a reviewing liquidator

Creditors, by resolution, may appoint a reviewing liquidator to review a liquidator's remuneration or a cost or expense incurred in a liquidation. 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.

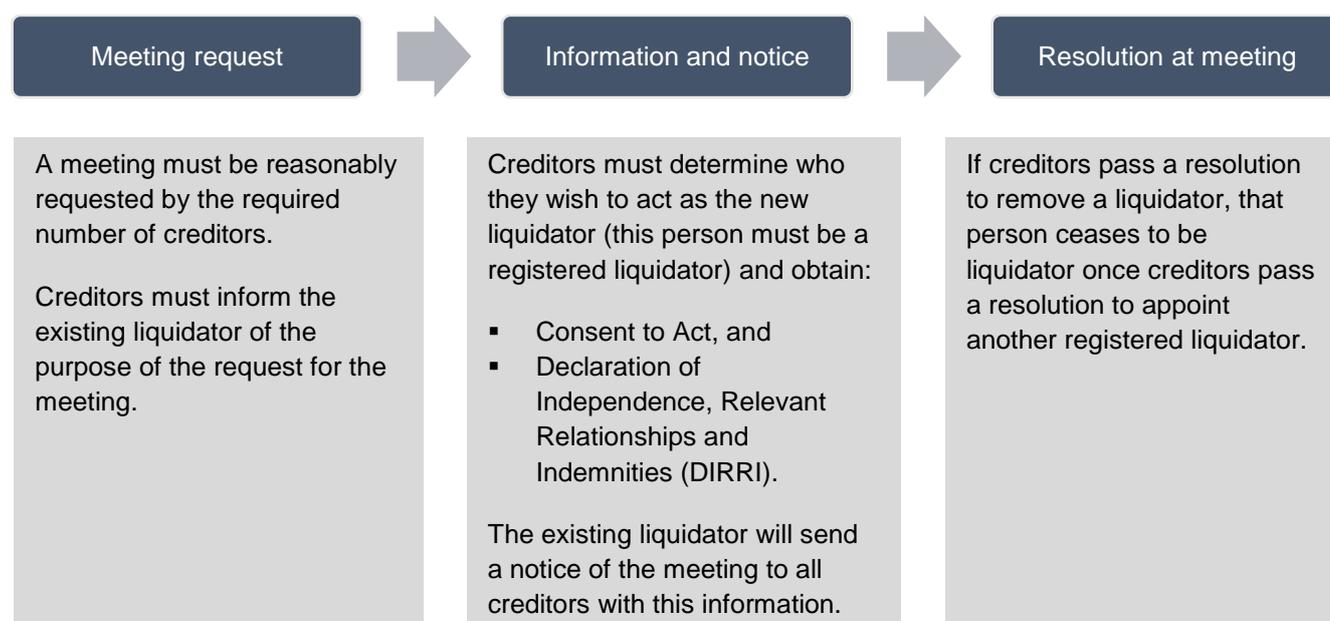
The cost of the reviewing liquidator is paid from the assets of the liquidation, in priority to creditor claims.

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

## Right to replace liquidator

Creditors, by resolution, have the right to remove a liquidator and appoint another registered liquidator.

For this to happen, there are certain requirements that must be complied with:



**For more information, go to [www.arita.com.au/creditors](http://www.arita.com.au/creditors)**

## Annexure F

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**MONDEX GROUP PTY LTD (IN LIQUIDATION) ACN 165 224 064**  
**INITIAL ADVICE TO CREDITORS – BASIS OF APPOINTEES' REMUNERATION**

**REMUNERATION METHODS**

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

***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.

***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.

***Percentage***

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

***Contingency***

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

**METHOD PROPOSED**

We propose that our remuneration is calculated on a time basis. We believe this method is appropriate as it ensures that only the actual work performed is charged for. There are also various tasks required to be completed which do not involve the realisation of assets, such as reporting to ASIC, undertaking investigations, corresponding with creditors and answering their queries, and completing other statutory tasks required by law.

**ESTIMATE OF REMUNERATION FOR THE ADMINISTRATION**

We estimate our remuneration for undertaking the administration will be approximately \$100,000 (exclusive of GST), subject to the following variables which may have a significant effect on this estimate and that we are unable to determine until the administration has commenced:

- The full scope and extent of necessary work (from experience, unforeseen matters typically arise and may require us to perform additional work beyond that currently anticipated).

## **EXPLANATION OF HOURLY RATES**

The rates for our remuneration calculation are attached together with a general guide showing the qualifications and experience of staff that will be engaged in the administration and the role they 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.

## **DISBURSEMENTS**

Disbursements are divided into three types:

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

We are not required to seek creditor approval for disbursements paid to third parties, but must account to creditors. However, we must be satisfied that these disbursements are appropriate, justified and reasonable.

We are required to obtain creditors' approval for the payment of internal disbursements which were not charged at cost (and which may therefore have a profit or advantage attached to them), prior to these disbursements being paid from the administration. These disbursements typically would include internal photocopying, printing and facsimile costs. However, as we do not charge our external administrations for internally-generated FTI disbursements where they have not been charged at cost (such as photocopying and printing charges for the use of internal photocopiers, printers etc), creditor approval is not required.

Details of the basis of recovering internal and external disbursements in this administration are provided in the table below. Full details of any actual costs incurred will be provided with future reporting.

## FTI Disbursements Schedule

Disbursement type	Charge Type	Charge Rate (excl GST)
Advertising	External, non-professional	At cost
ASIC Industry Funding Model Levy – metric events	External, non-professional	At cost (at prescribed ASIC rates)
Couriers and deliveries	External, non-professional	At cost
Data Room Charges	External, professional	At cost
Facsimile	Internal (FTI)	Not charged
Legal Fees	External, professional	At cost
Postage	External, non-professional	At cost
Photocopying – internal	Internal (FTI)	Not charged
Photocopying – outsourced	External, non-professional	At cost
Printing – internal	Internal (FTI)	Not charged
Printing – outsourced	External, non-professional	At cost
Records costs – storage, destruction, boxes	External, non-professional	At cost
Search fees	External, non-professional	At cost
Staff motor vehicle use - mileage	Cents per km	At prescribed ATO rates
Staff travel - accommodation, meals etc	External, non-professional	At cost
Stationery and other incidental disbursements	External, non-professional	At cost
Telephone	Internal (FTI)	Not charged
Valuation Fees	External, professional	At cost
Other externally provided professional services		At Cost
Other externally provided non-professional services		At Cost

**FTI Consulting CF&R Standard Rates effective 1 May 2019  
(excluding GST)**

<b>Typical classification</b>	<b>Standard Rates \$/hour</b>	<b>General guide to classifications</b>
Senior Managing Director	695	Registered Liquidator and/or Trustee, with specialist skills and extensive experience in all forms of insolvency administrations. Alternatively, has proven leadership experience in business or industry, bringing specialist expertise and knowledge to the administration.
Managing Director	625	Specialist skills brought to the administration. Extensive experience in managing large, complex engagements at a very senior level over many years. Can deputise for the appointee. May also be a Registered Liquidator and/or Trustee. Alternatively, has extensive leadership/senior management experience in business or industry.
Senior Director	575	Extensive experience in managing large, complex engagements at a very senior level over many years. Can deputise for the appointee, where required. May also be a Registered Liquidator and/or Trustee or have experience sufficient to support an application to become registered. Alternatively, has significant senior management experience in business or industry, with specialist skills and/or qualifications.
Director	515	Significant experience across all types of administrations. Strong technical and commercial skills. Has primary conduct of small to large administrations, controlling a team of professionals. Answerable to the appointee, but otherwise responsible for all aspects of the administration. Alternatively, has significant senior management experience in business or industry, with specialist skills and/or qualifications.
Senior Consultant 2	465	Typically an Australian Restructuring Insolvency & Turnaround Association professional member. Well developed technical and commercial skills. Has experience in complex matters and has conduct of small to medium administrations, supervising a small team of professionals. Assists planning and control of medium to larger administrations.
Senior Consultant 1	400	Assists with the planning and control of small to medium-sized administrations. May have the conduct of simpler administrations. Can supervise staff. Has experience performing more difficult tasks on larger administrations.
Consultant 2	375	Typically Institute of Chartered Accountants in Australia qualified chartered accountant (or similar). Required to control the tasks on small administrations and is responsible for assisting with tasks on medium to large-sized administrations.
Consultant 1	335	Qualified accountant with several years' experience. Required to assist with day-to-day tasks under the supervision of senior staff.
Associate 2	320	Typically a qualified accountant. Required to assist with day-to-day tasks under the supervision of senior staff.
Associate 1	300	Typically a university graduate. Required to assist with day-to-day tasks under the supervision of senior staff.
Junior Associate	195	Undergraduate in the latter stage of their university degree.
Administration 2	205	Well developed administrative skills with significant experience supporting professional staff, including superior knowledge of software packages, personal assistance work and/or office management. May also have appropriate bookkeeping, accounting support services or similar skills.
Junior Accountant	155	Undergraduate in the early stage of their university degree.
Administration 1	165	Has appropriate skills and experience to support professional staff in an administrative capacity. May also have appropriate bookkeeping, accounting support services or similar skills.

The FTI Consulting Standard Rates above apply to the Corporate Finance & Restructuring practice and are subject to periodical review.