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To the creditor as addressed

Our ref 32456841_1

3 April 2018

Dear Sir/Madam

**AnaeCo Limited (Administrators Appointed)
ACN 087 244 228 ("the Company")**

We refer to the appointment of Matthew Woods and I, Hayden White, of KPMG as joint and several Voluntary Administrators of the Company on 18 December 2017, pursuant to section 436C of the Corporations Act 2001 ("the Act").

1

Meeting details

We have convened the second meeting of creditors in accordance with section 439A of the Act to determine the Company's future. Accordingly, we enclose our Administrators' report to creditors in accordance with rule 75-225(3) of the Insolvency Practice Rules 2016 ("IPR") which includes:

- 1 **Notice of the second meeting of creditors**, being convened for 2:30pm (AWST) Tuesday, 10 April 2018 at the offices of KPMG, Level 8, 235 St Georges Terrace, Perth WA ("Second Meeting"). Teleconference facilities are available for creditors who are unable to attend the second meeting in person. In order to use this facility, creditors require approval from the Administrators or one of their representatives.

Creditors who wish to attend and vote at the Second Meeting via teleconference must lodge an informal proof of debt and appointment of proxy form with this office in accordance with the below deadline. Please contact our office for dial-in details.
- 2 An **informal proof of debt or claim form** for submission prior to 3:00pm (AWST) Monday, 9 April 2018 to our offices.
- 3 An **appointment of proxy form** for those creditors who wish to attend the meeting, for submission prior to 3:00pm Monday, 9 April 2018 to our offices.
- 4 The **Administrators' remuneration report** explaining their remuneration claim (retrospective and prospective) in accordance with the Act and the Australian Restructuring, Insolvency and Turnaround Association Code of Professional Practice.



To the creditor as addressed
AnaeCo Limited (Administrators Appointed)
ACN 087 244 228 ("the Company")
3 April 2018

The Administrators' report to creditors includes our opinion, with supporting reasons, as to whether it would be in the creditors' interest:

- to enter into the proposed Deed of Company Arrangement ("DOCA"); or
- for the Company to be wound up; or
- for the Administration to end.

The following documents accompany this letter:

- Administrators' report pursuant to rule 75-225(3) of the IPR
- Notice of appointment
- Declaration of independence, relevant relations and indemnities
- Form 529 – Notice of Meeting of Creditors
- Informal Proof of Debt for voting purposes
- Form 532 – Appointment of Proxy
- DOCA term sheet
- Creditor information sheet: a guide to creditors
- Remuneration advice to creditors
- Approving fees: a guide for creditors

2 Deed Proposal to consider

The Administrators received a Deed Proposal from Benelong Capital Partners Pty Ltd, for the restructure and recapitalisation of the Company by way of a DOCA and Creditors Trust, including allowance for the Company to be reinstated on the ASX.

Please refer to section 8.3 of the enclosed Administrators' report for further details of the Deed Proposal.

3 Closing

Should you have any queries in relation to the second meeting, or wish to submit an informal proof of debt or appointment of proxy form, please contact Luke Parker of my staff on +61 8 9263 7376 or alternatively, via email at lparker1@kpmg.com.au.

Yours faithfully

Hayden White
Administrator



Voluntary Administrators' report to creditors

In accordance with Insolvency
Practice Rule 75-225(3) of the
Insolvency Practice Rules
(Corporations) 2016

AnaeCo Limited ACN 087 244 228
("the Company" or "AnaeCo")

Hayden White and Matthew Woods
Joint and Several Administrators

3 April 2018

Glossary

\$	Australian Dollar
ABN	Australian Business Number
ACN	Australian Company Number
Act	Corporations Act 2001 (Commonwealth)
Administrators	Hayden White and Matthew Woods of KPMG
AnaeCo/the Company	AnaeCo Limited (Administrators Appointed)
ARITA	Australian Restructuring, Insolvency and Turnaround Association
ASIC	Australian Securities and Investments Commission
ATO	Australian Taxation Office
AUD	Currency in Australian Dollars
AWST	Australian Western Standard Time
BAS	Business Activity Statement
CBA	Commonwealth Bank of Australia
DIRRI	Declaration of Independence, Relevant Relationships and Indemnities
DOCA	Deed of Company Arrangement
EY	Ernst and Young Australia
ERV	Estimated Realisable Value
FEG	Fair Entitlements Guarantee
FY15	Financial Year 2015 (1 July 2014 to 30 June 2015)
FY16	Financial Year 2016 (1 July 2015 to 30 June 2016)
FY17	Financial Year 2017 (1 July 2016 to 30 June 2017)
GST	Goods and Services Tax
IP	Intellectual property
k	Thousands
Loan Agreement	Loan Agreement and Restatement Deed, executed on 4 August as part of the XEPT transaction
m	Millions
MND	Monadelphous Group Limited
PAYG	Pay As You Go withholding tax
PPSR	Personal Properties and Securities Register
RATA	Report as to Affairs
SGC	Superannuation Guarantee Charge
The Appointment	The appointment of Hayden White and Matthew Woods as Administrators of the Company on 18 December 2017
Tripartite Agreement	Tripartite Deed of Sale and Co-operation AnaeCo Loan, executed on 4 August as part of the XEPT transaction
WIP	Work in progress
WMRC Project	Western Metropolitan Regional Council Project
XEPT transaction	The transaction between AnaeCo, XEPT and Monadelphous, executed on 4 August 2016, by which XEPT will become a 55% controlling shareholder of AnaeCo
XEPT	Xiaoqing Environmental Protection Technology Co Ltd
YTD FY18	Year to date Financial Year 2018 (1 July 2017 to 18 December 2017)

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1. Executive summary

1.1 Report highlights

This report has been prepared in accordance with rule 75-225(3) of the IPR and the ARITA guidelines which requires that Administrators present a summary of their preliminary investigations into the affairs of the Company and its officeholders and present the available options to creditors based on the Administrators' findings. The following has been prepared as an executive summary of the key points in this report, and is to be read in conjunction with the detailed information set out in the balance of this report and its annexures.

1.2 Appointment

On 18 December 2017, Hayden Leigh White and Matthew David Woods of KPMG, were appointed joint and several Administrators of AnaeCo Limited by its secured creditor, Monadelphous Group Limited ("MND"), pursuant to section 436C of the Corporations Act 2001 ("the Act").

The appointment was made following notice provided to MND that the board of directors of AnaeCo had resigned from office (effective 17 December 2017), and as a result MND terminated the Tripartite Agreement (refer to section 3.5 for more information) between AnaeCo, MND and Xiaoqing Environmental Protection Technology Co Ltd ("XEPT") (referred to herein as the "XEPT Transaction"), and supporting Loan Agreement between MND and AnaeCo.

The Administrators are registered liquidators, members of ARITA and the CAANZ, and duly consented to act as voluntary administrators of the Company, in writing, prior to their appointment. The Administrators have been, and continue to be, in control and possession of all of the Company's assets and undertakings since their appointment.

1.3 Causes of failure

Based on our preliminary investigations to date, we agree with the former directors' comments that the following events lead to the appointment of Voluntary Administrators of the Company:

- Continued delays in the execution of the XEPT transaction, ultimately leading to the termination of the Tripartite Agreement and Loan Agreement with MND;
- Failure to secure revenue generating contracts following the handover of the Western Metropolitan Regional Council ("WMRC") Project in April 2016.

1.4 Shut down of trading operations

Following an immediate review of AnaeCo's financial position on appointment, the Administrators determined it would be in the creditors' interest to continue to trade the business in the short term whilst expressions of interest were sought for the recapitalisation or sale of AnaeCo's business and operations.

We assumed control of the Company's business upon appointment. We immediately set and implemented the appropriate controls and systems with respect to cash, banking, purchase orders, reporting and equipment management.

Following an assessment of the interest received from the sales and marketing campaign (refer to section 8), it became evident that minimal interest was seen in the ongoing operation of AnaeCo's trading business, but rather focused on its intellectual property assets and its ASX listing. In mid-February 2018, we began to wind down the Company's operations which included the termination of all employees and vacating (disclaiming) the leased premises in Bentley, Western Australia where the Company operated from.

We confirm that as at the date of this report, the Company is no longer trading.

1.5 Second meetings of creditors – 10 April 2018

The purpose of this report is to provide creditors with sufficient information so they can make an informed decision about the Company's future at the upcoming Second Meeting.

On 23 January 2018 and 6 March 2018, the Administrators received orders from the Supreme Court of Western Australia for an extension of time to hold the second meeting of creditors. Accordingly, the second meeting of creditors will be held as follows:

Date: Tuesday, 10 April 2018
Time: 2.30PM (AWST)
Address: KPMG, Level 8, 235 St Georges Terrace, Perth, Western Australia

At this meeting, creditors will be entitled to vote on whether:

- the company should enter a Deed of Company Arrangement;
- the administration should end; or
- the company should be wound up.

1.6 DOCA proposal

As outlined in section 8 of this report, following a public expressions of interest campaign and direct bidder targeting, the Administrators received six non-binding indicative proposals to restructure and recapitalise the Company via a DOCA.

Having regard to the respective financial outcomes, completion risks, and interests of the secured creditor, the Administrators have agreed a binding proposal from Benelong Capital Partners Pty Ltd ("the Proponent") for the restructure and recapitalisation of the Company ("Deed Proposal"). A summary of this proposal, and copy of the proposed term sheet is set out in section 8 and Annexure G of this Report.

Key terms of the Deed Proposal are set out below:

- Subject to creditor approval at the upcoming meeting, the Proponent and Administrators will enter into a DOCA for the restructure and recapitalisation of AnaeCo;
- On completion of the Conditions Precedent (refer to section 8 for more details), a Creditors Trust will be established with the following assets (the "Trust Fund") available for distribution to AnaeCo creditors:
 - Cash contribution by the Proponent of \$665,000
 - Issue of new shares with a minimum value of \$320,000 on the re-instatement of AnaeCo onto the ASX;
 - Any residual assets held by the Deed Administrators at the time of completion under the DOCA

Based on the Administrators' assessment of the likely return to creditors, the distribution of the Trust Fund will provide:

- Priority creditors (employee entitlements) with a 100 cents/\$ return on their Admitted Claims;
- Unsecured creditors with a pro-rata distribution at the capped amount of \$20,000 on Admitted Claims, which results in a return of approximately 4.22 cents/\$;
- The balance of any Trust Funds will be payable to MND, along with the transfer of AnaeCo's outstanding receivables (XEPT debtor) and intellectual property and related software

Further detail on the rate of return to creditors is set out in section 9 of this report.

1.7 Liquidation

In addition to the Deed Proposal, creditors have the option to resolve that the Company be wound up at the forthcoming meeting. A liquidator will be able to complete investigations into the Company and if deemed appropriate, pursue transactions that are considered voidable and also initiate insolvent trading claims against past and present directors of the Company should such claims exist. We note our preliminary conclusions in this regard are that no such claims exist.

1.8 Administrators' opinion

Based on the Administrators' analysis at section 8 and 9 of this report with respect to the Deed Proposal and its risks and return/value to each class of creditors in comparison to a liquidation scenario, the Administrators consider that it is in the interests of creditors to accept the proposed DOCA, and therefore **we recommend that creditors resolve to accept the proposed DOCA at the upcoming meeting.**

2. Introduction

2.1 Purpose of this report

The purpose of this report is to provide creditors with sufficient information on the Company's business, property, affairs and financial circumstances, and provide our recommendation as to the Company's future.

Our statement of opinion on each of the above matters is set out in Section 10 of this report.

The detailed report, notices convening the meeting and other documents relevant to our opinion and meeting procedures are attached as Appendices to this report. All documents should be considered prior to you attending the upcoming meeting, whether in person or by proxy.

2.2 Appointment of Administrators

On 18 December 2017, Hayden Leigh White and Matthew David Woods of KPMG, 235 St Georges Terrace, Perth WA, were appointed joint and several Administrators of AnaeCo Limited pursuant to section 436C of the Act.

Following notice provided to the Company's secured creditor, MND, that the board of directors of AnaeCo had resigned from office effective 17 December 2017, the XEPT Transaction (discuss in detail in section 3.5) was terminated on 18 December 2017.

As a result, a Material Adverse Change under the Loan Agreement between MND and AnaeCo was triggered, and MND provided notice to AnaeCo that all secured funding was immediately due and payable. In the absence of a Board of Directors, MND resolved to appoint myself and Matthew Woods as Administrators of AnaeCo on that day.

The Administrators are both registered liquidators, members of ARITA and the CAANZ, and duly consented to act as voluntary administrators of the Company, in writing, prior to their appointment. The Administrators have been, and continue to be, in control and possession of all of the Company's assets and undertakings since their appointment.

2.2 Objective of the Administration

Section 435A of the Act details the objectives of the administration provisions under the Act. Those provisions provide for the business, property and affairs of an insolvent company to be administered in a way that:

- Maximises the chance of the company, or as much as possible of its business, continuing in existence, or
- If it is not possible for the company or its business to continue in existence, results in a better return for the company's creditors and members than would result from an immediate winding up of the company.

This report has been prepared from information obtained from the Company, its officers and other relevant parties and in accordance with rule 75-225(3) of the IPR and the ARITA guidelines.

The statements and opinions given in this report are given in the belief that such statements are not false or misleading. However, we reserve the right to alter any conclusions reached on the basis of any changed or additional information which may become available to us between the date of this report and the date of the second meeting of creditors.

2.3 First meeting of creditors

The first meeting of creditors of the Company was held on Tuesday, 2 January 2018 at 10.00 am (AWST), at the offices of KPMG, Level 8, 235 St Georges Terrace, Perth WA ("the First Meeting"). Six creditors were present at the first meeting of creditors, one in person, and five represented by proxy.

The only business permitted to be conducted at the First Meeting was:

- For creditors to determine whether a committee of creditors be appointed, and if so to appoint the members of that committee, and
- If such a resolution is put to the First Meeting, for the creditors to determine whether to remove the Administrators from office and appoint an alternate administrator(s).

Creditors did not resolve to appoint a Committee of Creditors, nor to appoint an alternate administrator(s).

Minutes of the First Meeting were duly lodged with the Australian Securities and Investments Commission ("ASIC") on 12 January 2018 and may be obtained by creditors directly from the ASIC or by contacting this office.

2.4 Extension of the convening period

On 23 January 2018, the Administrators applied to the Supreme Court of Western Australia for a six week extension to the convening period to allow for additional time to undertake a potential sale, and or recapitalisation of AnaeCo.

Orders were granted on 23 January 2018 providing an extension to the convening period to 7 March 2018, having regard to the following:

- Due to the timing of our appointment and the limited time available under the VA regime, the commencement of the Administrators' sales and marketing campaign occurred during the Christmas/ New Year shut down period with genuine interest from the campaign not commencing until the week starting 8 January 2018 as interested bidders returned to work;
- Due to the delayed commencement, the status of the sales and marketing campaign at the time of our application was as follows:
 - 19 expressions of interest, with eight registered bidders executing a Confidentiality Agreement;
 - Two indicative non-binding offers, not yet capable of acceptance or reporting to creditors
 - An additional three to four parties expressing their intention to submit an offer for the restructure and recapitalisation of AnaeCo

By the expiry of the above extension, the Administrators' were still in continued negotiations for the sale and recapitalisation of the Company. Accordingly, on 6 March 2018, Master Sanderson of the Supreme Court of Western Australia granted a further extension of time to 4 April 2018 for the Administrators and the preferred bidder to complete these negotiations, with the intention of securing a deal that would provide a greater return to creditors than in a liquidation.

2.5 Second meeting of creditors

The second meeting of creditors will be held as follows:

Date: Tuesday, 10 April 2018
Time: 2:30PM (AWST)
Address: KPMG, Level 8, 235 St Georges Terrace, Perth, Western Australia

In accordance with rule 75-225(3) of the IPR, the purpose of the second meeting of creditors is to consider:

- The Administrators' report to creditors on the Company's business, property, affairs and financial circumstances; and
- A statement setting out the Administrators' opinion about each of the following matters:
 - whether it would be in the creditors' interests for the Company's to execute a deed of company arrangement;
 - whether it would be in the creditors' interests for the Administration to end; or
 - whether it would be in the creditors' interests for the Company's to be wound up and also setting out:
 - his or her reasons for those opinions, and
 - such other information known to the Administrators that will enable the creditors to make an informed decision about each matter covered by subparagraph (i), (ii) or (iii); and
 - if a DOCA is proposed – a statement setting out details of the proposed DOCA

Creditors will also have the option to adjourn the meeting for a period not to exceed forty-five (45) business days.

Proof of debt and proxy

To participate in the decision meeting, you may need to:

- Submit a proof of debt and information to substantiate your claim (**if not previously submitted**).
- Appoint a person – a "proxy" or person authorised under a power of attorney – to vote on your behalf at the meeting. This may be necessary if you are unable to attend the meeting, or if the creditor is a company.

You can appoint the chairperson of the meeting as your proxy and direct the chairperson how you wish your vote to be cast. If you choose to do this, the chairperson must cast your vote as directed.

To facilitate the conduct of the meeting, completed proof of debt and, if applicable, proxy forms must be returned to my office by post, fax or email **by 3.00pm (AWST) Monday, 9 April 2018**.

Attendance by phone

Electronic facilities will be made available at the meeting via conference telephone call. To access those facilities, you will need to provide a statement by email to Luke Parker at lparker1@kpmg.com.au no later than 2 business days before the meeting which sets out:

- Name: the name of the person and of the proxy or attorney (if any)
- Address: An address to which notices to the person, proxy or attorney may be sent
- Contact: the method of contacting the person, proxy, or attorney for the purposes of the meeting; and
- Submit the necessary Proof of Debt and Appointment of Proxy forms

On receipt of this statement and verification of your claim for voting purposes, you will be provided with instructions on how to access these facilities for the meeting.

2.6 Statement of independence

Pursuant to section 436DA of the Act, the Administrators are required to complete and provide a Declaration of their Independence, Relevant Relationships and Indemnities detailing any matters that may impact their actual or perceived independence to creditors.

The Administrators' DIRRI in respect of the Company was provided to creditors with notice of the Administrators' appointment on 19 December 2017. The DIRRI was tabled at the first meeting of creditors of the Company on 2 January 2018. The Administrators were not provided with any indemnity, guarantee or contribution from the former directors of the Company (or their associated businesses), a creditor, or any other party for their fees and costs, aside from the statutory indemnities available under the Act.

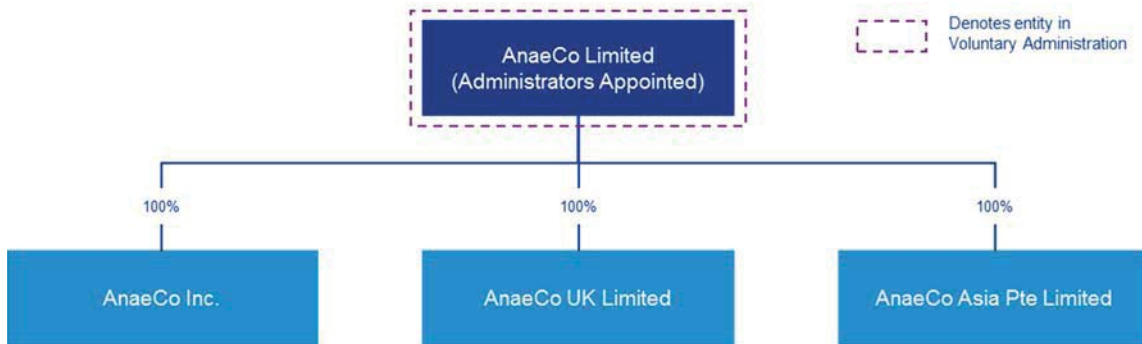
The Administrators are not aware of any changes to circumstances or facts since their DIRRI was prepared on 19 December 2017, and/or any facts or circumstances that have not already been disclosed that may threaten their independence.

A true copy of the Administrators' DIRRI dated 19 December 2017 is attached as **Annexure B** of this report. All particulars of the DIRRI remain unchanged.

3. Company information

3.1 Corporate Structure

The corporate structure of AnaeCo and its related subsidiaries is set out below. We confirm that our appointment is limited to AnaeCo Limited only, and does not extend to its internationally registered subsidiaries.



AnaeCo Inc.

U.S. registered, non-trading, wholly owned company.

AnaeCo UK Limited

U.K. registered, non-trading, wholly owned limited company.

AnaeCo Asia Pte Limited

Singapore registered, non-trading, wholly owned limited company.

3.2 Australian trading operations

AnaeCo operated from a leased premises in Bentley, Western Australia, and employed 13 staff responsible for the development of a waste management technology applicable for processing municipal solid waste using an advanced mechanical and biological treatment methodology. AnaeCo also operated a transportable sea container, used as a 'laboratory', at the Brockway Waste Transfer Station.

AnaeCo's principal activities were the design and commissioning of the Western Metropolitan Regional Council ("WMRC") Project. This project involved the construction of a plant to process 55,000 tpa of municipal solid waste for the WMRC and the City of Stirling using the AnaeCo's proprietary AnaeCo™ System. This project was developed by Palisade Investment Partners Limited's Regional Infrastructure Fund, with the design and construct services delivered jointly by AnaeCo Ltd and MND. AnaeCo was responsible for design and commissioning, and MND was responsible for construction and procurement.

All work under the Design & Construct contract was completed and the project was handed over to the client in April 2016, after various time and cost delays. Ultimately, the joint venture partners suffered significant losses on the project.

Following delivery under the above project, AnaeCo failed to secure material revenue generating work. The future of the Company became dependent upon the XEPT transaction (summarised in detail at section 3.5 below), full details of which were announced to the market in August 2016.

This protracted transaction ultimately led to the resignation of the existing Board of Directors on 17 December 2017, the withdrawal of financial support from MND, and ultimately the appointment of Administrators on 18 December 2017.

3.3 Statutory information

Company register

Records held by ASIC disclose the following information in respect of the incorporation details and former officers of the Company. The Company's former Board of Directors listed below resigned from office, effective 17 December 2017.

Accordingly, at the date of our appointment, there were no registered directors of AnaeCo.

Statutory information				
Incorporation Date	Registered office/ Principal place of business	Current Directors	Former directors (ceased 17 December 2017)	Current Secretary
21 April 1999	3 Turner Avenue Bentley WA 6102	n/a	David Andrew Lymburn (commenced 30 May 2014) Shaun Edward Scott (commenced 7 March 2011) Gianmario Alessio Capelli (commenced 28 November 2008)	Timothy James Hinton (commenced 23 July 2013)

Stock exchange listing

The Company was incorporated in Western Australia, and listed on the Australian Securities Exchange ("ASX") on 13 February 2008 under the issuer code "ANQ".

On 30 August 2017, the ASX suspended AnaeCo's securities from official quotation, pending AnaeCo's ability to demonstrate compliance with listing rule 12.2 regarding the Company's financial condition (refer to section 4.3 below).

At the time of suspension of AnaeCo's securities, there were 2,672,798,568 fully paid ordinary shares on issue, with a closing price of \$0.003. AnaeCo's shares remained suspended through to the date of our appointment.

The top 10 shareholders at that time are listed below:

Shareholder summary - top 10 ordinary shareholders		
Name	# of shares	% interest
Monadelphous Group Limited	390,142,118	14.60
UBS Nominees Pty Ltd	104,910,000	3.93
Thirty-Fifth Celebration Pty Ltd	94,624,697	3.54
Sirknight Pty Ltd	60,000,000	2.24
Flourish Holdings Pty Ltd	56,818,332	2.13
Nichol Bay Holdings Pty Ltd	48,295,357	1.81
Mr Nigel Percy Gray	35,000,000	1.31
Avatar Industries Pty Ltd	23,313,400	0.87
Mr Glen Paul Hewitt	23,280,919	0.87
Mr John Herrmann & Mrs Pamela Mary Herrmanr	20,265,399	0.76
Total top 10 shareholders	856,650,222	32.05
Other shareholders	1,816,148,346	67.95
Total issued capital	2,672,798,568	100.00

3.4 Registered charges

Searches of the PPSR against the Company as at the date of the Administrators' appointment disclosed 18 security interests as having been registered against the Company, as set out in the table below:

PPSR registrations			
Secured party	# of registrations	Registration class	Discharge status (where applicable)
Monadelphous Group Limited	1	All PAAP	
Access Hire Australia Pty Ltd & Others	2	PMSI (Motor Vehicle)	
Marpoll Pty Ltd	1	PMSI (Motor Vehicle)	Discharged
United Equipment Pty Limited	1	PMSI (Motor Vehicle)	Discharged
Global Construction Services Limited & Others	6	PMSI (Motor Vehicle, Other Goods)	Discharged (documentation requested)
Coates Hire Operations Pty Limited	2	PMSI (Motor Vehicle, Other Goods)	Discharged
BOC Limited	1	PMSI (Other Goods)	Discharged
Energy Power Systems Australia Pty. Limited.	1	PMSI (Other Goods)	Discharged
Freo Group Limited	1	PMSI (Other Goods)	Discharged
Perkal Pty Ltd	1	PMSI (Other Goods)	Discharged
Prominent Fluid Controls Pty Limited	1	PMSI (Other Goods)	Discharged

For those registrants whose security is no longer relevant or valid, we have requested that the registrants remove their interests from the PPSR.

At the date of this report, 9 secured parties confirmed their security interests against the Company were no longer valid and 15 PPSR registrations have been formally discharged off the register. The security interests that have since been discharged are reflected in the above table.

3.5 XEPT transaction

The Company relied upon funding from its joint venture partner MND to undertake the design and commission work for the WMRC Project. Funding for this project commenced in December 2013, and was provided by way of payments to trade suppliers on behalf of AnaeCo and advancements on the Company's annual R&D tax incentive refunds, at an interest rate of 12% per annum. At the completion of the WMRC Project, total funding amounted to \$14.7m.

As a result of MND's commitment to financially support the Company during the joint venture for the WMRC Project, the repayment date for these funding facilities were subject to a number of extensions.

On 2 September 2015, AnaeCo announced a potential transaction with the Chinese based company, XEPT, which would result in XEPT becoming a major shareholder of AnaeCo. The transaction sought to consolidate amounts owing to MND, totalling \$16.54m at the time of execution in August 2016, into a single loan agreement and to discharge this loan amount by way of a debt to equity swap with both XEPT and MND.

The key terms of the XEPT transaction are summarised below:

- all loan agreements between AnaeCo and MND to be consolidated into a single agreement through the execution of a Loan Agreement Amendment and Restatement Deed;
- MND will assign to XEPT right and entitlement to the consolidated loan in the amount of \$11.5m, for consideration of the same amount;
- XEPT and AnaeCo will execute a debt to equity swap, forgiving the \$11.5m loan assigned to XEPT and resulting in XEPT holding a post completion controlling interest in AnaeCo, amounting to 55% of the share capital;
- MND and AnaeCo will execute a debt to equity swap to a maximum value of c.\$5.7m, forgiving the remaining loan amount and resulting in MND holding a post completion interest in AnaeCo of 30% of the share capital;
- MND will ensure that AnaeCo holds a minimum cash balance at completion of \$1.5m, after accounting for all liabilities of AnaeCo; and
- at completion, MND will refund AnaeCo c. \$2.2m, being 50% of the 2014/2015 Research and Development Claim paid by AnaeCo to MND as a loan repayment.

Completion of the XEPT transaction would result in AnaeCo:

- being debt free
- holding a minimum cash balance of \$3,724,055
- having expanded its share capital by 82.4%

Originally executed on 4 August 2016 and scheduled for completion by 31 December 2016, the XEPT transaction was subject to a number of extensions being 31 March 2017, 15 July 2017 and 30 September 2017.

On each occasion, it was announced to the market that XEPT were not in a position to satisfy the transaction's conditions precedent. During this time, MND continued to fund the operations of AnaeCo with a net increase in AnaeCo's loan accounts of c. \$1.4m during the period August 2016 to November 2017, to ensure AnaeCo remained solvent and therefore in compliance with the terms of the Tripartite Agreement.

Following repeated delays and a lack of communication from XEPT, together with the existing Board of Directors of AnaeCo resigning on 17 December 2017, MND issued a notice of termination of the Tripartite Agreement, which triggered a Material Adverse Change under the Loan Agreement resulting in all monies advanced to AnaeCo by MND becoming immediately due and payable.

4. Historical financial performance

4.1 Preparation of financial statements

The Company maintained their accounting records electronically utilising MYOB software which was managed by AnaeCo's accounts staff.

Summarised below are the financial statements for financial years ending 30 June 2015, 2016 and 2017, and YTD2018 (unaudited). The Company engaged EY to prepare audited annual accounts for the years ending 30 June 2015, 30 June 2016 and 30 June 2017.

4.2 Auditor's opinions for the FY15, FY16 and FY17 financial statements

Financial Year 2015

The Company's financial report for the year ending 30 June 2015 has been prepared on a going concern basis with the Company's ability to continue as a going concern being dependent upon the following documented factors:

- the Company's success with commercialising its AnaeCo technology and generating future sales to enable the Group to generate profit and positive cash flows;
- obtaining additional funding as and when required; and
- receiving the continued support of its shareholders and creditors, which includes the expected conversion from debt to equity of a substantial portion of the loan owing to MND

In undertaking the audit of the Company's financial report for the year ending 30 June 2015, EY determined they *"were not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion."* A **disclaimer of opinion** was provided on the following basis:

- the Company incurred losses of \$7.8m during the year and current liabilities exceeded current assets by \$9.1m at 30 June 2015, with insufficient evidence obtained in support of whether the Company can achieve the matters underlying the Directors' going concern assumption (outlined above);
- a lack of evidence in support of the recoverability of the Company's capitalised development expenditure totalling \$3.2m; and
- a lack of evidence to assess the adequacy of the Company's estimated costs to complete the WMRC Project of \$4.3m, provisioned in the statement of financial position.

Financial Year 2016

In respect of the Company's financial statements for the year ending 30 June 2016, EY expressed an **emphasis of opinion**, drawing attention to the following:

"Without qualifying our opinion, we draw attention to note 2(a) in the financial report which describes the principal conditions that raise doubt about the consolidated entity's ability to continue as a going concern. These conditions indicate the existence of a material uncertainty that may cast doubt about the consolidated entity's ability to continue as a going concern and therefore, the consolidated entity may be unable to realise its assets and discharge its liabilities in the normal course of business."

The principal conditions referred to above are the same factors identified by the Company's Directors in financial year 2015.

Financial Year 2017

In undertaking the audit of the Company's financial report for the year ending 30 June 2017, EY determined they *"were not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion."*

A **disclaimer of opinion** was provided on the following basis:

- the Company incurred losses of \$5.8m during the year and current liabilities exceeded current assets by \$20.3m at 30 June 2017, with insufficient evidence obtained in support of whether the Company can achieve the matters underlying the Directors' going concern assumption (as outlined for financial year 2015 above);
- a lack of evidence in support of the recoverability of the Company's capitalised development expenditure totalling \$1.6m; and
- a lack of evidence to assess the recoverability of the Company's \$400k receivable for engineering and design services.

4.3 ASX Enquiry

On 4 September 2017, the Company received correspondence from the ASX, setting out 15 queries in relation to the basis for the auditor's disclaimer of opinion in the Company's FY17 financial statements (refer section 4.2 above), the incomplete XEPT transaction, and therefore AnaeCo's ability to continue as a going concern.

The Company's Directors' issued a response (by way of a public announcement) on 8 September 2017, disclosing the following key points:

- the Directors' considered the Company could continue as a going concern given:
 - the Tripartite Agreement executed on 4 August 2016 remained current;
 - upon completion of the Tripartite Agreement, all amounts owing to MND will either be converted to equity or forgiven;
 - whilst the Tripartite Agreement is awaiting completion, AnaeCo's funding requirements would be met through its MND funding facility; and
 - the Company had no evidence to suggest that either MND or XEPT did not intend to complete the XEPT transaction
- the Company did not anticipate undertaking a capital raising in the short term should the XEPT transaction complete, as the Company would have \$3.7m in free cash (requirement under the Deed) which is forecast to be sufficient to fund the business for 12 months;
- should the Tripartite Agreement be terminated, AnaeCo's ability to remain a going concern was dependent on the continued support of MND under the Loan Agreement;
- the Company expected the completion of the XEPT transaction to positively impact the Company's ability to commercialise its intellectual property and generate future revenue; and
- should the Tripartite Agreement be terminated, the \$400k receivable from XEPT may need to be accounted for as a doubtful debt.

No further enquiry in response to the above was made by the ASX.

4.4 Income statement

We have reviewed the Company's audited financial information for FY15, FY16, FY17 as well as the Company's FY18 management accounts to the date of the Administrators' appointment, being 18 December 2017, which are summarised below together with our relevant commentary:

AnaeCo Limited Profit and loss statement					
\$000	Note	FY15	FY16	FY17	YTD FY18
Revenue					
Revenue	(a)	-	-	431	206
Other income	(b)	4,470	5,639	794	2
Total revenue		4,470	5,639	1,225	207
Expenses					
Project delivery costs	(c)	(7,905)	(7,677)	(221)	(39)
Technology development expense		(110)	(341)	(1,422)	(658)
Finance costs	(d)	(511)	(1,380)	(2,198)	(1,095)
Wages & Salaries expense	(e)	(1,211)	(1,232)	(1,308)	(268)
Premises and related expenses		(354)	(342)	(296)	(177)
Professional advisor expenses	(f)	(740)	(715)	(383)	(58)
Other overheads		(525)	(368)	(358)	(200)
Depreciation & amortisation	(g)	(923)	(904)	(862)	-
Total expenses		(12,278)	(12,959)	(7,049)	(2,495)
Net profit/(loss) before income tax		(7,808)	(7,320)	(5,824)	(2,288)
Income tax expense		-	-	-	-
Net profit/(loss)		(7,808)	(7,320)	(5,824)	(2,288)

The Company has continued to incur year on year losses since FY15, with cost overruns incurred in the delivery of the WMRC Project (FY15 and FY16) partly offset by the receipt of R&D tax incentives (classified as "other income"). Upon completion of the WMRC Project in FY16, the Company's revenue significantly decreased as it failed to secure additional contracts to cover its operating expenditure that was being funded via the loan agreement from MND.

We set out below our comments in relation to the Company's financial performance:

a) *Revenue*

AnaeCo has not historically engaged in performing services under short term engineering contacts following the delivery of the WMRC Project. Recent engineering revenue (\$431k in FY17, and \$206k in YTD18) was generated from services provided to XEPT under a design and engineering contract connected to the Tripartite Agreement, as well as small scale engineering maintenance work. AnaeCo has not yet been paid for these services.

b) *Other income*

Comprising interest income and Government R&D tax incentive grants. The Government R&D tax incentives were the Company's primary source of revenue during FY15 to FY17, arising from eligible expenditure in the development of the Company's waste processing IP (the patented AnaeCo System), which was constructed as part of the WMRC Project.

c) *Project Delivery costs*

The Company's primary outflows during FY15 and FY16 were project costs incurred in the design and commissioning of the technology for the WMRC Project. AnaeCo had not secured any material contracts since the WMRC Project and as such, project costs materially decreased.

d) *Technology development expenses*

Comprising patent expenditure and written off WIP that had been accrued in the development of AnaeCo's waste management technology. Upon the completion of the WMRC Project, the Company began to write off development WIP as staff time recognised in this account became focused on administrative tasks.

e) *Finance costs*

Primarily the interest incurred on the Company's loan from MND at a rate of 12% per annum. Interest expenses materially increased in FY16 and FY17 consistent with the material increases in funding provided by MND to AnaeCo over this period.

f) *Professional advisor expenses*

Comprising legal fees, audit fees and tax consulting fees

4.5 Balance sheet

We set out below a summary of the Company's consolidated balance sheet position, extracted from the Company's audited financial statements as at 30 June 2015, 30 June 2016, 30 June 2017 and from the Company's management accounts as at 18 December 2017:

AnaeCo Limited Statement of financial position					
\$000	Note	as at 30 Jun 2015	as at 30 Jun 2016	as at 30 Jun 2017	as at 18 Dec 2017
Current assets					
Cash and cash equivalents		729	611	349	654
Trade and other receivables	(a)	4,579	6,192	1,195	601
Other		5	5	15	62
Total current assets		5,312	6,807	1,559	1,318
Non-current assets					
Property, plant and equipment		35	9	5	5
Loan receivable	(b)	-	-	-	457
Intangible assets	(c)	3,821	2,949	2,093	2,093
Total non-current assets		3,855	2,958	2,098	2,555
Total assets		9,167	9,765	3,657	3,873
Current liabilities					
Trade and related party payables	(d)	768	5,562	5,592	5,500
Other payables and accrued expenses		437	226	121	39
Provision for loss on contract		4,339	-	-	-
Interest bearing loans and borrowings	(e)	8,581	16,156	15,912	18,129
Provisions		333	209	194	192
Total current liabilities		14,458	22,154	21,819	23,859
Non current Liabilities					
Provisions		275	324	352	354
Total non-current assets		275	324	352	354
Total liabilities		14,733	22,478	22,172	24,213
Net liabilities		(5,565)	(12,713)	(18,515)	(20,340)

The Company's net liability position has deteriorated annually since 30 June 2015, driven by the year on year losses since FY15, and reflected in:

- a reduction in R&D tax incentives receivable, resulting from a failure to secure additional material contract work following the handover of the WMRC Project in April 2016;
- the amortisation of the Company's primary non-current asset, intellectual property; and
- an increase in loans payable to MND, as MND continued to fund AnaeCo's day to day operations to assist with the completion under the Tripartite Agreement.

We set out below our comments in relation to the Company's financial position:

a) *Trade and other receivables*

Comprising R&D tax incentive refunds receivable and trade receivables. The carrying value of the Company's trade receivables balance significantly reduces in FY17 due to a reduction in expenditure eligible for the R&D tax incentive refund. As at 30 November 2017, all R&D tax incentive receivables had been recovered with the only receivable assets being \$600k owing from XEPT for engineering and design services performed in connection

with the Tripartite Agreement and \$1.3k due from a debtor for engineering and consultancy services supplied in December 2017.

b) *Loan receivable*

The monthly management accounts recognise a receivable asset relating to the long term incentive plan for employees and directors. The Company's employee share plan provides non-recourse loans to employees for the purchase of shares that is repayable when the shares are sold at a price greater than the allotment price. This receivable amount is netted off in the preparation of audited financial statements and hence carries a zero balance in the above summary at each audit year end.

c) *Intangible assets*

The Company has adopted the Australian Accounting Standards (AASB 138) in the recognition of its development expenditure incurred in the design, review and standardisation of the Company's waste technology, as an intangible asset. This asset is deemed to have a useful life of 10 years and is amortised on a straight line basis. Annual impairment tests are carried out on this intangible asset, with no impairments made during the period reviewed.

d) *Trade payables*

The majority of AnaeCo's trade payable balance is attributable to amounts owing to MND in the amount of \$5.4 (as at the time of our appointment). This liability relates to supplies and services paid by MND on the Company's behalf in relation to the WMRC Project (separate from secured funds), as well as day to day trade creditors, and is separate from the secured facility.

e) *Provision for loss of contract*

Whilst undertaking the WMRC Project, the Company provisioned the future estimated costs to complete. Upon handover of the project in April 2016, all costs were accounted and appropriately adjusted in the financial accounts.

f) *Interest bearing loans and borrowings*

The Company's primary source of funding were funds advanced from MND in relation to the WMRC Project, and day to day operations post the delivery of the WMRC Project, totalling an amount of \$18.1m (excluding trade creditor amounts of \$5.4m) at the date of our appointment. The protracted XEPT transaction resulted in MND continuing to fund the Company's operations of approximately \$250k per month over the 2017 financial year under the Loan Agreement, with MND providing net funding of \$1.4m during this time.

5. Statement by directors

5.1 Report as to affairs

Effective 17 December 2017 (the day prior to our appointment), the existing Board of Directors of AnaeCo resigned from office. The Corporations Act imposes an obligation on current officers at the date of appointment to submit to external administrators an ASIC Form 507 – Report as to Affairs with respect to the assets and liabilities of the company under external administration at the date of appointment.

On 3 January 2018, we wrote to the former directors of AnaeCo requesting their assistance, and completion of the ASIC Form 507. However as there is no statutory obligation to do so, the former directors have not provided us with the Form 507.

We note however, assistance has been provided by David Lymburn (former Managing Director) since the date of our appointment. With Mr Lymburn's assistance, together with the Company's records, we set out below in section 5.4 a schedule of the assets and liabilities of AnaeCo as identified from our work undertaken to date.

5.2 Reasons for financial difficulties – directors explanation

The former directors have provided an explanation as to the events leading to the appointment of Voluntary Administrators to the Company, summarised as follows:

- Continued delays in the execution of the XEPT transaction, ultimately leading to the termination of the Tripartite Agreement and Loan Agreement with MND;
- Failure to secure revenue generating contracts after the handover of the WMRC Project in April 2016

5.3 Reasons for financial difficulties – Administrators opinion

The Administrators agree with the reasons set out by the Directors. In the absence of MND's commitment to the ongoing funding of AnaeCo's operations, the Company was unable to pay its debts as and when they fell due.

5.4 Summary of assets and liabilities

We set out below a summary of the assets and liabilities identified to date:

AnaeCo Limited Assets and liabilities			
Item	Note	Book value (\$)	Realisable value (\$)
Assets			
Cash	(a)	653,940	653,222
Trade receivables	(b)	601,298	1,298
Prepayments	(c)	62,382	14,947
Long term incentive plan receivable		457,000	-
Plant and equipment	(d)	4,651	11,270
Software	(e)	-	Withheld
Patents and trademarks	(e)	492,059	Withheld
Technology and development IP	(e)	1,600,942	Withheld
Subsidiary investments		279	-
Total assets		3,872,550	Withheld
Liabilities			
Unsecured creditors		109,853	474,127
Secured creditor - MND		23,557,463	23,557,463
Employee entitlements payable		545,452	489,217
Total liabilities		24,212,768	24,520,808
Net liabilities		(20,340,218)	Withheld

We make the following comments with respect to the above summary:

(a) *Cash at bank*

Immediately on appointment, the Administrators secured and realised \$653k in cash at bank the Company held with CBA.

(b) *Trade receivables*

Trade Receivables comprise two debtors, Shenton Energy (\$1.3k) which was paid in full on 13 February 2018, and XEPT of \$600k.

The Administrators wrote to XEPT immediately on appointment requesting payment of the outstanding debtor amount in full. This amount relates to services performed under a Design Engineering Services Agreement between XEPT and AnaeCo, which was entered into following a further extension under the Tripartite Agreement. The recovery of this debt from XEPT is continuing.

Should creditors resolve to approve the Deed Proposal, the XEPT debtor (should it remain unrealised) will be assigned to MND in satisfaction of the debts owed by AnaeCo and for the release of MND's security being a condition of the Deed Proposal (refer to section 8 for further detail)

(c) *Prepayments*

Prepayments realised by the Administrators' to date relate to the reimbursement from pre-appointment insurance policies held by AnaeCo as the time of our appointment.

(d) *Plant and equipment*

The Company's plant and equipment assets included office equipment and a transportable laboratory and associated laboratory equipment which was realised for \$8.5k (excluding GST) during the Administration.

(e) *Intellectual property*

The Company's primary assets are its intellectual property which includes software, patents and technology and development intellectual property (very specialised in their nature). Should creditors resolve to wind up the Company, the liquidators will undertake an asset sale campaign and as such the value of these items remains commercially sensitive.

Should creditors resolve to approve the Deed Proposal, these assets will be assigned to MND in satisfaction of the debts owed by AnaeCo and for the release of MND's security being a condition of the Deed Proposal (refer to section 8 for further detail).

(f) *Unsecured claims*

The Administrators realisable value of trade creditors comprise:

- 1) POD's submitted to date from general trade creditors;
- 2) Amounts payable to the ATO of \$54k as per the Company records; and
- 3) Unsecured component of claims from related party employee's (defined as Excluded Employees under the Corporations Act) as described below.

The Administrators have not yet formally adjudicated unsecured creditor claims for distribution purposes.

(g) *Secured creditor – MND*

On 22 December 2017, MND submitted to the Administrators' their POD (for voting purposes only) in the amount of \$23.6m. This POD claim comprises the secured component under the loan agreement of \$18.2m, and the amount recorded in AnaeCo's financial accounts classified as trade creditors of \$5.4m.

The Administrators have not yet formally adjudicated MND's claim for distribution purposes.

(g) *Employee entitlements*

The book value of employee entitlements comprises accrued annual leave and long service leave.

As previously commented, all employees of AnaeCo were made redundant in February 2018. The Administrators ERV is based on our review of the individual employee contracts and the National Employment Standards for the applicable termination payments. Employee entitlements owing (comprising annual leave, long service leave and payment in lieu of notice) amounted to \$695k however due to restrictions under the Corporations Act for excluded employees, the priority claim for the external administration amounts to \$489k. The difference represents an unsecured claim as discussed at point (f) above.

6. Trading by the Administrators

6.1 Overview

Following an urgent review of AnaeCo's financial position, the Administrators determined it would be in the creditors' interest to continue to trade the business in the short term whilst expressions of interest in either the sale, or recapitalisation of AnaeCo were sought.

The Administrators assumed control of the Company' business upon appointment. We immediately set and implemented the appropriate controls and systems with respect to cash, banking, purchase orders, reporting and equipment management.

Following an assessment of the interest received for the sale and / or recapitalisation of AnaeCo, it became apparent that interest was focussed on the IP assets and the ASX listing, with no ongoing interest in the existing business structure (ie operational premises and workforce). Once confirmed from our selection of the preferred bidders, we began to wind down the Company's operations which included the termination of all staff, and vacating (disclaiming) the leased premises in Bentley, Western Australia.

6.2 Task undertaken

A detailed schedule of the major tasks undertaken is set out in our Remuneration Report dated 3 April 2018 (Annexure H), which accompanies this report to creditors. If you have not received a copy of this report, please contact Luke Parker of this office on (08) 9263 7376 or by email at lparker1@kpmg.com.au.

6.3 Administration receipts and payments

A summary of the receipts and payments of the business during the Administration period of 18 December 2017 to 26 March 2018 is set out below:

AnaeCo Limited Receipts and Payments	
	Amount (\$)
Opening cash at bank	-
Receipts	
Pre-appointment cash at bank	653,222.28
Pre-appointment debtor	1,297.56
Sale of transportable laboratory	9,350.00
Pre-appointment insurance refund	5,946.55
Total receipts	669,816.39
Payments	
Administration legal fees	(11,123.58)
Advertising expenses	(4,405.60)
Bank charges	(25.40)
Cleaning expenses	(360.00)
Hire and leasing	(28.60)
Insurance	(3,606.80)
Internet	(1,827.20)
IT expenses	(3,970.68)
Patent legal fees	(493.30)
Rent	(25,933.16)
Security expenses	(429.36)
Software subscriptions	(238.41)
Subcontractors	(1,486.54)
Utilities	(699.80)
Valuation expenses	(2,750.00)
Wages and salaries	(250,411.04)
Total payments	(307,789.47)
Cash at bank as at 26 March 2018	362,026.92

7. Statutory investigations

7.1 Scope

Pursuant to section 438A of the Act, the Administrators are required to conduct investigations into the Company's business, property, affairs and financial circumstances. The Administrators are required to form an opinion about whether it would be in the best interest of the creditors of the Company to execute a DOCA, for the administration to end, or for the Company to be wound up. Given the comparison required with a winding up, the Administrators investigations include the consideration of whether there are any potential actions available to a liquidator in the event that creditors resolve to place individual Company into liquidation.

We are required to report to ASIC if we consider that past or present officers or shareholders of the Company may have committed an offence under the Act. Reports to ASIC are confidential and we are unable to disclose details to creditors.

The short time frame associated with this Administration process limits the extent of investigations that can be performed prior to the Second Meeting. We have not completed a full investigation of the kind that we would perform should the Company be placed into liquidation. The investigations performed to date, and documented herein, are therefore only indicative of the actions that may be possible in the event of liquidation. Should creditors consider they have further information that may be useful in our inquiries, please do not hesitate to contact this office.

In considering the merits of proceeding with any recovery action, a liquidator must have regard to the relative costs and benefits together with the prospects of success and the financial ability of defendants to meet claims. Recovery actions are often expensive and can involve lengthy delays if court proceedings are required.

7.2 Information reviewed

The investigations performed by the Administrators were predominantly based on the following sources of information:

- Audited financial accounts for the FY15, FY16 and FY17 financial periods
- Management accounts for the above financial years, and YTD FY18
- Books and records located at the Company's trading premises, including accounting information downloaded from the Company's accounting software
- Discussions with management, staff, suppliers and other parties

7.3 Recovery actions available to a Liquidator

Should the Company proceed to liquidation at the Second Meeting, the Corporations Act allows for a number of circumstances and conditions where a liquidator may seek to recover monies from various parties for the benefit of the entire body of creditors ("Liquidator Actions").

Relevantly, such claims can only be brought by a liquidator. Should creditors of the Company resolve that the Company execute a DOCA, no liquidator will be appointed and these recovery actions will not be available for the benefit of creditors.

Liquidator Actions fall into the following broad categories:

- Insolvent trading (refer section 7.4)
- Voidable transactions (refer section 7.5):
 - Uncommercial transactions
 - Unfair preferences
 - Unfair loans
 - Unreasonable director-related transactions
 - Transactions to defeat creditors
 - Voidable circulating interests

In addition, any actions available directly to the Company may also be pursued by a Liquidator with the benefits flowing directly to unsecured creditors. These actions are not exclusively available to a liquidator and therefore it may be possible for a Deed Administrator to pursue such actions on behalf of the Company if the Company execute a DOCA (subject to

the specific terms of the DOCA executed). Claims of this nature relate to offences and directors' duties, and typically include:

- Breaches of directors' duties
- Misleading and deceptive conduct

Further discussion in relation to the above matters is set out in section 7.6 of this report.

In the majority of circumstances, it may be necessary for the Liquidator (or Deed Administrator, where applicable) to commence formal legal proceedings to pursue any matters identified that fall within the above categories. There a number of inherent risks in pursuing legal proceedings and as such, any recovery in respect of legal proceedings is highly dependent on:

- Further investigations to establish the precise facts of each claim;
- Obtaining an independent legal opinion that supports the strength (or otherwise) of each claim being pursued;
- The Liquidator having suitable funding in place to meet the costs of conducting detailed investigations, obtaining a legal opinion and prosecuting the claim;
- The nature of any potential defences (statutory or otherwise) that may be relied upon by the defendant of each claim;
- The claim succeeding at trial or otherwise being settled on suitable terms;
- **Importantly**, the financial capacity of defendants to meet any eventual judgement awarded in favour of the liquidator or Company; and
- In relation to insolvent transactions, proving the insolvency of the Company when the transaction in question occurred.

A summary of the potential actions that may be pursued by a Liquidator (should the Company enter liquidation, and not a DOCA) together with the Administrators' preliminary assessment as to whether further investigations into these areas is warranted is set out below:

AnaeCo Limited Potential recovery actions			
Section of the Act	Potential recovery action	Report Ref.	Further investigations warranted
Liquidator actions			
588G, M	Insolvent trading	7.4	✘
588FA	Unfair preferences	7.5.1	✘
588FB	Uncommercial transactions	7.5.2	✘
588FD	Unfair loans to a company	7.5.3	✘
588FDA	Unreasonable director-related transactions	7.5.4	✘
588FE(5)	Transactions to defeat creditors	7.5.5	✘
588FJ	Voidable circulating interests	7.5.6	✘
Potential director offences			
180-184	Breaches of general directors' duties	7.6.1	✘
191	Breach of duty to disclose material personal interest	7.6.2	✘
286	Failure to keep proper accounting records	7.6.3	✘
292/319	Failure to lodge annual reports with ASIC	7.6.4	✘
314	Failure to comply with requirements for financial statement preparation	7.6.5	✘
438B	Failure to assist Administrators, deliver books and provide information	7.6.6	✘
588G, K	Being a director at the time when an insolvent company incurs a debt and there are reasonable grounds for suspecting the company to be insolvent	7.6.7	✘
Part 5.8A	Arrangements to avoid employee entitlements	7.6.8	✘
674	Requirement for listed company to comply with disclosure requirements	7.6.9	✘
1307	Concealing, destroying, mutilating or falsifying books and records	7.6.10	✘
1308	Making a statement which is knowingly false or misleading in a material particular	7.6.11	✘
1309	Making, furnishing, authorising or permitting any false or misleading statement or report to directors, auditors or members	7.6.12	✘

7.4 Insolvent trading

7.4.1 Preliminary assessment

Pursuant to section 588G of the Act, a director may be found by a relevant court, to be personally liable to a company if the director fails to prevent a company from incurring a debt when, at the time of incurring that debt, the company is insolvent, or becomes insolvent by incurring the debt, and there existed reasonable grounds to suspect that the company was or would become insolvent.

It is crucial to note that, with the exception of unfair loans, in order for a Liquidator to be able to set aside a transaction or obtain compensation from a director for insolvent trading, the Liquidator must first be able to show that at the relevant point in time of the transaction, the company was insolvent.

The determination of a company's solvency is a complex matter which is determined as a matter of commercial reality in light of all relevant facts.

The definition of solvency under section 9 of the Act states a company is considered to be solvent if, and only if, the company is able to pay its debts as and when they become due and payable. A company that is not solvent is insolvent. There are two key tests in determining a company's solvency, being:

- Balance sheet test
- Cash flow test

Creditors should be aware that a successful claim for insolvent trading requires extensive analysis and generally requires legal action.

In order to reach a preliminary conclusion concerning the likely date of the Company' insolvency, a range of factors/indicators may be considered, addressed in section 7.4.2 below.

7.4.2 Determining insolvency

The case of ASIC v Plymin (2003) 46 ACSR 126 is often referenced in considering the time a person/business becomes insolvent. The case contains a list of 14 common indicators of insolvency, which have been adopted to determine the solvency of the Company.

Having regard to our analysis below, our preliminary view is that **AnaeCo remained solvent until the appointment of Administrators on 18 December 2017**, at the time the Loan Agreement was terminated by MND and all secured amounts (c. \$18.1m) became immediately payable.

AnaeCo Indicators of Insolvency																		
Indicator	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17
Continuing losses	✓	✓	✓	✓	✓	✗	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Current ratio below 1	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Current ratio below 1 (adjusted)	✗	✗	✗	✗	✗	✗	✗	✗	✗	✓	✓	✗	✗	✗	✗	✗	✗	✓
Overdue taxes	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
Inability to borrow	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✓
No alternative finance	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
Inability to raise capital	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
Suppliers placed on COD	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
Creditors outside terms	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
Issuing post-dated cheques	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
Dishonoured cheques	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
Special creditor arrangements	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗
Demands, writs, judgements	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✓
Round-sum payments	✗	✓	✓	✓	✗	✗	✗	✗	✗	✓	✗	✗	✗	✗	✗	✗	✗	✗
Inability to produce information	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗	✗

Legend:

Insolvency Indicator present	✓	Preliminary assessment of insolvent period
Requires further investigation	?	
Not an indicator	✗	

A liquidator, if appointed, would need to conduct further investigations to determine whether or not the Company became insolvent at that time or earlier.

The above indicators are discussed in further detail below.

7.4.2.1 Continuing Losses

A series of trading losses may cause or indicate a decline in working capital resources available to the business. Trading losses may however, be absorbed by borrowings, alternative finance or capital injection/raising.

AnaeCo Continuing losses																		
	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17
Income	1,294	5,075	571	1,368	10,922	1,507	791	11,830	409	13,415	200,307	977,412	200,201	287	2,646	2,527	443	1,345
Expenses	(380,256)	(445,984)	(468,176)	(961,177)	(4,995,606)	3,598,380	(443,662)	(457,766)	(462,528)	(457,263)	(571,185)	(995,859)	(498,909)	(469,824)	(494,384)	(539,357)	(471,128)	(21,339)
Operating profit / (loss)	(378,962)	(440,909)	(467,605)	(959,810)	(4,984,685)	3,599,887	(442,870)	(445,936)	(462,119)	(443,848)	(370,878)	(18,447)	(298,708)	(469,537)	(491,737)	(536,830)	(470,685)	(19,995)
Insolvency indicator present	✓	✓	✓	✓	✓	*	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

The Company incurred trading losses in 17 of the last 18 months assessed above, with a YTD18 operating net loss of \$2.2m, and FY17 operating loss of \$5.8m.

These losses are attributed to AnaeCo failing to secure any material service contracts following completion of the WMRC project delivered in April 2016, with ongoing funding of their operations being funded by MND under the Loan Agreement.

7.4.2.2 Liquidity ratio below 1

A business liquidity ratio compares its current assets to its current liabilities, designed to examine a company's ability to access funds in the immediate short term from "liquid" assets to pay liabilities due and payable.

We note that some current assets and liabilities included in this analysis are more liquid than others, including the rate at which receivables may be recovered, or whether some current liabilities are in fact due and payable at that point in time.

AnaeCo Liquidity ratio												
	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17
Current assets	6,653,906	6,506,913	6,332,230	6,465,624	1,681,359	1,252,157	1,016,368	748,218	773,616	718,833	543,748	1,550,498
Current liabilities	22,816,980	23,232,952	23,650,077	24,393,229	24,593,649	20,106,690	20,313,772	20,491,558	20,977,585	21,366,651	21,564,243	22,157,840
Current ratio	0.29	0.28	0.27	0.27	0.07	0.06	0.05	0.04	0.04	0.03	0.03	0.07
Insolvency indicator present	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Adjustments to remove amounts payable to MND:												
MND recorded liabilities	(21,923,897)	(22,294,055)	(22,861,152)	(23,538,906)	(23,718,444)	(19,365,183)	(19,553,483)	(19,728,117)	(20,218,349)	(20,610,606)	(20,810,630)	(21,310,458)
Current ratio	7.45	6.93	8.03	7.57	1.92	1.69	1.34	0.98	1.02	0.95	0.72	1.83
Insolvency indicator present	*	*	*	*	*	*	*	*	*	✓	✓	*

AnaeCo Liquidity ratio						
	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17
Current assets	1,920,232	2,035,119	1,933,666	1,924,948	1,104,140	1,317,620
Current liabilities	22,826,309	23,410,707	23,800,991	24,329,103	23,978,980	24,212,852
Current ratio	0.08	0.09	0.08	0.08	0.05	0.05
Insolvency indicator present	✓	✓	✓	✓	✓	✓
Adjustments to remove amounts payable to MND:						
MND recorded liabilities	(22,021,540)	(22,587,258)	(23,052,929)	(23,528,370)	(23,276,279)	-
Current ratio	2.39	2.47	2.58	2.40	1.57	0.05
Insolvency indicator present	*	*	*	*	*	✓

Based on the recorded classification of AnaeCo's assets and liabilities, AnaeCo carried a liquidity ratio of less than one (indicator of insolvency) for the 18 months assessed above.

A material portion of the recorded current liabilities of AnaeCo, were amounts due and payable to MND, comprising \$5.4m in trade creditors, and an increasing loan account of \$18.1m at 18 December 2017. Whilst the MND funding was considered "Current" from an accounting classification, the commercial reality of the continued funding was that MND would not call upon this loan, forcing AnaeCo into insolvency (in the absence of any revenue generating work streams), whilst both MND and AnaeCo were pursuing completion under the XEPT transaction. When the MND liabilities are removed from the above analysis, AnaeCo had sufficient assets to cover its liabilities for 15 of the 18 months of our assessment.

The MND Loan Agreement was terminated and all secured funds became due and payable on 18 December 2017.

7.4.2.3 Overdue commonwealth and state taxes

AnaeCo Overdue taxes																			
	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17	
Insolvency Indicator																			
present	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*

Late or non-payments and/or lodgements of statutory tax returns is a strong indicator of financial distress in a business.

Our review of the period July 2016 to the date of our appointment, AnaeCo reported and paid its outstanding commonwealth and state taxes as an when they fell due, as evidenced by:

- Enquiries with management;
- Our review of the ATO running balance account (on appointment);
- The statutory liabilities owing at the date of our appointment related to PAYG liabilities accrued in November 2017, and to 18 December 2017 that had not fallen due for payment at the date of our appointment;

In addition, our preliminary review of the Company’s records did not identify any payment arrangements with the ATO or other statutory body.

7.4.2.4 Poor relationship with a financier or the inability to borrow

AnaeCo Poor relationship with financiers																			
	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17	
Insolvency indicator																			
present	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	✓

A company’s financier often has greater visibility over the company’s financial health in comparison to the general body of unsecured creditors, by virtue that the financier benefits from the supply of company financial information to justify balance sheet health and financial viability.

A poor relationship with a financier may be driven by:

- Late or absence of repayments on facilities
- Overdrawn or breach of facilities
- Breach of covenants or financial ratios
- Breach of other conditions, including information supply as required

A poor relationship with a financier is not necessarily a firm indicator of the company’s insolvency, however, the poor relationship may lead to the inability to renew, extend, increase or restructure facilities.

At the time of our appointment, MND has been providing ongoing funding to AnaeCo under the Loan Agreement, to ensure that AnaeCo remained as a going concern and could complete the XEPT transaction. Monthly funding provided by MND commenced prior to July 2016, and continued through to December 2017 (the last funding of \$250,000 was provided on 14 December 2017).

In Board Minutes of the Company dated 6 June 2017, it was recorded that in a meeting with MND, the secured creditor advised that *‘if the outcome was negative and the transaction failed, MND would examine every opportunity for value recovery before considering sending AnaeCo into administration.’*

With MND continuing to fund AnaeCo up to and including the last payment on 14 December 2017, and termination of the Loan Agreement occurring following the resignation of the existing Board of Directors on 17 December 2017, we do not consider that AnaeCo had a poor relationship with its financiers or an inability to borrow additional funds under this agreement until this date.

7.4.2.5 No alternative finance available

AnaeCo No alternate finance available																			
	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17	
Insolvency indicator																			
present	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*

From our preliminary investigations, AnaeCo did not attempt to secure any alternative finance from sources other than MND prior to our appointment.

7.4.2.6 Inability to raise capital

AnaeCo Inability to raise capital																		
	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17
Insolvency indicator present	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*

A review of AnaeCo’s Board minutes, and memorandums issued over the period October 2016 to the date of our appointment, referenced the XEPT transaction as the only equity transaction pursued by the Company, with completion continuously delayed, and ultimately the transaction did not complete (refer to section 3.5).

Prior to this transaction, the last equity raising undertaken by the Company was a Rights Issue in 2013.

7.4.2.7 Suppliers placing the debtor on COD terms

AnaeCo Suppliers requiring COD terms																		
	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17
Insolvency Indicator present	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*

As a consequence of late or non-payment of supplier invoices, a supplier may place the debtor on ‘cash on delivery’ terms, or cease supply altogether. Existence of COD terms are an indicator that a company may be experiencing cash flow stress.

In addition to advice provided by AnaeCo’s management, our investigations did not identify that any suppliers had placed AnaeCo on COD terms prior to our appointment.

7.4.2.8 Creditors unpaid outside trading terms

AnaeCo Creditors paid outside trading terms																		
	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17
Insolvency indicator present	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*

One of the strongest indicators of cash flow stress is creditors increasingly being paid late, invoices not paid within trading terms, or at all (where not disputed).

Our review of AnaeCo’s aged trade creditors at each month end (excluding the unsecured claim from MND of \$5.4m), recorded (on average) 41% of total trade creditors with balances exceeding 30 days outstanding. On average 3% of amounts owing to trade creditors over this period exceeded 60 days outstanding.

Our comparison of AnaeCo’s ends of month cash balance, with creditors exceeding 30 days outstanding, always resulted in AnaeCo holding sufficient cash at bank to pay outstanding trade creditors (excluding MND’s recorded trade creditor balance of \$5.4m) at each month end.

7.4.2.9 Issuing post-dated cheques

AnaeCo Issuing post-dated cheques																		
	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17
Insolvency Indicator present	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*

Whilst more uncommon than other indicators with a general move to electronic payment processing, issuance of post-dated cheques is a clear indicator of insolvency as it serves as admission by the payer that they have insufficient funds to pay an amount at that point in time.

We did not discover any instances of the Company issuing post-dated cheques, with electronic funds transfers being the Company’s’ primary means of processing payments.

7.4.2.10 Dishonoured cheques or payments

AnaeCo Dishonoured payments																		
	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17
Insolvency Indicator																		
present	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*

A cheque or payment is generally dishonoured due to insufficient funds being present in the account.

We did not discover any instances of dishonoured payments due to insufficient funds during the period 1 July 2016 to 18 December 2017.

7.4.2.11 Entering into special arrangements with creditors

AnaeCo Special arrangements with creditors																		
	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17
Insolvency Indicator																		
present	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*

Where a company is unable to pay its debt to a creditor in full, they may agree with the creditor to enter into a repayment arrangement to meet arrears. Whilst entering into the arrangement is a strong indicator of stress, the arrangement itself may cause the company to 'return to solvency' as a result of the agreement, as the debt is no longer due and payable in full at that point in time.

Based on enquires with management, and our preliminary investigations undertaken, the Administrators did not locate any formal creditor arrangements with trade creditors.

7.4.2.12 Examples of letters of demand, writs, judgements filed against the company

AnaeCo Letters of demands, writs and judgements																			
	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17	
Insolvency Indicator																			
present	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	✓

Growing creditor pressure (from multiple creditors) in the form of letters of payment follow up, demand and instances of filings of writs, summons, judgements and winding up applications against a company is generally a strong indicator of insolvency.

The Administrators have not located any examples of demands, writs or judgements that were filed against AnaeCo prior to the receipt of the notification from MND dated 18 December 2017 calling due all Secured Money under the Loan Agreement.

7.4.2.13 Round sum payments

AnaeCo Round sum payments																		
	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17
Insolvency Indicator																		
present	*	✓	✓	✓	*	*	*	*	*	✓	*	*	*	*	*	*	*	*

Companies who are experiencing working capital stress may reduce creditor debts with round payments that are often not necessarily associated with satisfying particular invoices.

Four round sum payments were identified during the period July 2016 to December 2017 as reflected in the table above. Preliminary enquiries suggest these payments were associated with satisfying particular invoices/ fixed fee service agreements and therefore are unlikely to be an indicator of working capital stress in the business.

7.4.2.14 Inability to produce timely and accurate financial information

AnaeCo Inability to produce financial information																		
	Jul-16	Aug-16	Sep-16	Oct-16	Nov-16	Dec-16	Jan-17	Feb-17	Mar-17	Apr-17	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17
Insolvency indicator																		
present	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*

Sections 286 and 588E of the Act set out the requirement for a company to maintain adequate books and records and that a company may be insolvent due to not keeping proper books.

Section 588E(4) states that *"subject to subsections (5) to (7), if it proved that the company:*

- a. has failed to keep financial records in relation to a period as required by subsection 286(1), or*
- b. has failed to retain financial records in relation to a period for the 7 years required by subsection 286(2), then*

the company is to be presumed insolvent throughout the period."

Based on our preliminary investigations, we have been provided with adequate books and records in accordance with our requests.

7.4.3 Defences

Directors have a number defences available to them in relation to an insolvent trading claim. To defend a claim for insolvent trading a director must prove one of the following:

- At the time the debt was incurred the director had reasonable grounds to expect and did expect that the Company was solvent and would remain solvent if it incurred that debt and any other debts that it had incurred at that time
- At the time the debt was incurred the director had reasonable grounds to believe and did believe that a competent and reliable person was responsible for providing information about the Company's solvency and that person was fulfilling that responsibility
- The director through illness or some other good reason was not taking part in the management of the company at the time the debt was incurred
- The director took all reasonable steps to prevent the company from incurring the debt

7.4.4 Conclusion

From evidence gathered during our preliminary investigations (including but not limited to the 14 indicators of insolvency analysed above, email correspondence and copies of draft and actual agreements), it is the Administrators' preliminary view that AnaeCo remained solvent until termination of the Tripartite Agreement between AnaeCo, MND and XEPT occurred, and as a consequence, triggered a Material Adverse Change under the Loan Agreement between AnaeCo and MND, resulting in all Secured Monies being immediately due and payable as at 18 December 2017.

The major factors contributing to this preliminary view is that:

- In the absence of any material service contracts, the funding provided by MND in an attempt to complete the XEPT Transaction was the only source of funding for AnaeCo to continue to pay its debts and when they fell due;
- This funding continued to be provided by MND (the last payment was provide 14 December 2017), until such time that the Loan Agreement was terminated on 18 December 2017;
- The Company maintained a largely positive, adjusted working capital position (refer section 7.4.2.2) until such time that the MND Loan Agreement was called.

Notwithstanding, a Liquidator, if appointed, would need to conduct further investigations to reach a determination as to the exact date of insolvency, and accordingly, the quantum of any potential claim in connection thereto.

7.4.5 Directors' personal financial position

We have not requested the directors' to provide us with their respective personal financial positions for the purposes of this report, having regard to our preliminary investigations resulting in a date of insolvency of 18 December 2017 (being the date of our appointment).

7.5 Voidable transactions

A liquidator has the ability to void certain transactions should they be detrimental to a company and/or its creditors under the provisions of the Act.

The majority of voidable transactions require insolvency to be proven which, as set out in section 7.4, we consider is unlikely to have occurred until the date of our appointment. Notwithstanding, we set out below, based on our initial review of the Company's books and records, our preliminary views as to whether there are any transactions that may be considered voidable, subject to the further review of a liquidator, if appointed.

7.5.1 Unfair preferences

Section 588FA of the Act states that a transaction is an unfair preference given to a creditor of a company, if, and only if:

- a. The company and the creditor are parties to the transaction (even if someone else is also party to the transaction), and
- b. The transaction results in the creditor receiving from the company, in respect of an unsecured debt that the company owed to the creditor, more than the creditor would receive from the company in respect of the debt if the transaction were set aside and the creditor were to prove for the debt in a winding up of the company, even if the transaction is entered into, is given effect to, or is required to be given effect to, because of an order of an Australian Court of direction by an agency.

The provisions of the Act provide that an unfair preference is void against a Liquidator if:

- It is an insolvent transaction (ie the company was or becomes insolvent at the time it was entered into), and
- If the other party to the transaction is a non-related entity, the transaction occurred in the six months ended on the 'relation-back' day, which for AnaeCo would be 18 June 2017; or
- If the other party to the transaction is a related entity, the transaction occurred in the four years ended on the 'relation-back' day, which for AnaeCo would be 18 December 2013.

In order to prove a creditor received an unfair preference payment, the Liquidator must first show that the Company were insolvent at the time of the payment. This has been discussed further in section 7.4 above. As our preliminary investigations indicate that AnaeCo was solvent up until the day of our appointment (18 December 2017), this suggests that there will not be any potential recoveries from preference payments available to a Liquidator.

7.5.2 Uncommercial transactions

A transaction of a company is an uncommercial transaction if the following elements are established by a Liquidator:

- The transaction was entered into or given effect to within two (2) years of the date of appointment of the Administrator, and
- At the time the transaction was entered into, or when given effect to, the company was insolvent or became insolvent as a result of the transaction, and
- A reasonable person in the company's circumstances would not have entered into the transaction having regard to the benefits and detriments to the company in entering into the transaction and the respective benefits to other parties.

The defences available to a party involved in an uncommercial transaction claim are, in effect, the same as those for an unfair preference.

Given our preliminary determination of AnaeCo's date of insolvency (18 December 2017), our preliminary investigations have not revealed any potential uncommercial transactions.

7.5.3 Unfair loans to a company

An unfair loan is a loan made by a creditor to the Company where, upon analysis, the interest or charges with respect to the loan are extortionate. Unfair loans made to the Company any time prior to the appointment of the Administrators may potentially be overturned by a subsequently appointed Liquidator.

Our preliminary investigations have not revealed any potential unfair loans to a company.

7.5.4 Unreasonable director-related transactions

Pursuant to Section 588FDA of the Act, a transaction is an unreasonable director-related transaction if there is a payment by the Company to a director or close associate of the director, where a reasonable person in the company's circumstances would not make the payment.

Our preliminary investigations have not revealed any potential unreasonable director-related transactions.

7.5.5 Transactions to defeat creditors

Section 588FE of the Act provides that a transaction will be voidable if the transaction was designed to defeat, delay or interfere with the rights of creditors.

Our preliminary investigations have not uncovered any such transactions.

7.5.6 Voidable circulating interests

There are no charges against the Company that appear voidable under section 588FJ of the Act.

7.6 Offences and director duties

In addition to potential actions available to a liquidator, there are a range of offences under the Act that apply to the conduct of officers of the Company. Section 438D of the Act requires an Administrator to report to ASIC if it appears that:

- A past or present officer, or member, of a Company may have been guilty of an offence in relation to the Company, or
- A person who has taken part in the formation, promotion, administration, management or winding up of a Company may have misapplied or retained, money or property of the Company or may have been guilty of negligence, default, breach of duty or trust in relation to the Company

Based on our investigations, we have not identified any breaches by any of the abovementioned persons of their statutory or fiduciary obligations in relation to the Company. Accordingly, we have not reported to the ASIC under section 438D of the Act.

7.6.1 Breaches of general directors' duties

Pursuant to sections 180 to 184 of the Act, the duty to act in good faith includes:

- To act honestly
- To exercise powers in the interests of the Company
- To avoid conflicts of interest
- To use their position properly, and
- To use information only for its proper use

From our investigations to date, we have not found any evidence that the directors have breached their duty to act with care and due diligence and to act in good faith, nor have they used their position or information improperly.

7.6.2 Breach of duty to disclose material personal interest

From our investigations to date, we have not found any evidence that the directors have breached their duty to disclose material personal interests pursuant to section 191 of the Act.

7.6.3 Failure to keep proper accounting records

Pursuant to section 286 (1) and (2) of the Act, a company is required to keep written financial records for a period of 7 years that correctly record and explain its transactions, and financial position and performance and would enable true and fair financial statements to be prepared and audited.

In some circumstances, the failure to maintain adequate books and records in accordance with the Act may be relied upon by a liquidator in an application for compensation for insolvent trading and other actions for recoveries pursuant to Division 2 of Part 5.7B of the Act. In particular, under section 588E(4) of the Act, if a liquidator can establish that the company has failed to keep financial records as required under section 286(1) or (2) of the Act in relation to a period of time, the company is determined to have been insolvent throughout the period.

The Company records reviewed by the Administrators included (but not limited to):

- Audited financial statements covering the FY15, FY16 and FY17 periods
- Monthly management accounts including profit and loss statements and balance sheets for FY17 and YTD18;
- Detailed transaction journals for FY17 and YTD18
- Bank statements
- Board minutes
- Business Activity Statements and ATO correspondence
- XEPT Transaction agreements

Due to time constraints we have not attempted to review in any detail, information relating to the period beyond the last 2 years, however the information we have reviewed leads us to reach a preliminary conclusion that records were maintained in compliance with the requirements of Section 286 (1) or (2) of the Act.

7.6.4 Failure to lodge annual reports with ASIC

AnaeCo's directors did not breach either sections 319 or 320 of the Act within the last three years.

AnaeCo has not yet lodged its half-year accounts for the six months ending 31 December 2017. In this regard, we note that the Administrators are relying upon the automatic financial reporting relief pursuant to section 8 of the ASIC Corporations (Externally-Administered Bodies) Instrument 2015/251 for a period of six months from the date of appointment.

7.6.5 Failure to comply with requirements for financial statement preparation

We are not aware of any instances where AnaeCo's Directors had not complied with section 314 of the Act regarding the preparation of financial statements for members.

Please refer, however, to section 4.2 of this report in relation to the FY17 Audit, and AnaeCo's auditors issuing a "disclaimer of opinion", as there was insufficient appropriate audit evidence on certain matters considered material to the audit.

7.6.6 Failure to assist Administrators, deliver books and provide information

The former directors and employees of the Company complied with section 438D of the Act with respect to the assistance, delivery of books and provision of information to the Administrators as and when required.

7.6.7 Insolvent trading

Refer to section 7.4 of this report, where based on our preliminary investigations, the Company is likely considered insolvent on 18 December 2017 (our date of appointment) following MND's termination of the Loan Agreement and all funds becoming due and payable.

7.6.8 Arrangements to avoid employee entitlements

Part 5.8A of the Act contains provisions designed to protect the entitlements of employees from agreements by the Company that deliberately defeat the recovery of those entitlements in the event of the company's insolvency.

Based on our investigations to date, there has not been a contravention of Part 5.8A in relation to employee entitlements.

7.6.9 Requirement for listed company to comply with disclosure requirements

Other than the ASX enquiry as explained in section 4.3, we are not aware of any instances where the Company directors have not complied with disclosure requirements pursuant to section 674 of the Act.

7.6.10 Concealing, destroying, mutilating or falsifying books and records

We are not aware of any instances where the Company directors had breached section 1307 of the Act, in relation to concealing, destroying, mutilating or falsifying books and records of the company.

7.6.11 Making false or misleading statements in a material particular

We are not aware of any instances where the Company directors had breached section 1308 of the Act, in relation to making a statement which is knowingly false or misleading in a material particular.

7.6.12 Making or authorising false or misleading statements, reports to directors, auditors or members

We are not aware of any instances where the Company directors had breached section 1309 of the Act, in relation to making, furnishing, authorising or permitting any false or misleading statement or report to directors, auditors or members.

8. Sale of business/ Recapitalisation process

8.1 Sale campaign

The Administrators commenced their sales and marketing campaign for the sale of assets and/or recapitalisation of AnaeCo immediately following their appointment. Following advertisements placed in the local and national papers over a two week period, and direct enquiries with a number of identified bidders, the outcome of the sale campaign is as follows:

- received 21 expressions of interest from third parties in relation to the proposed purchase of the business or certain property, or the restructure of the Company by way of DOCA;
- received signed confidentiality agreements from ten of the interested parties referred to above;
- provided information in relation to the Company's business, property and affairs as requested to the ten parties who had executed CA's;
- received six non-binding indicative offers from third parties interested in both the business and its assets, or the restructure/ recapitalisation of the Company.

Following our consideration of all non-binding indicative offers received, the Administrators progressed negotiations with two preferred bidders for the receipt of binding terms to determine the best available option to provide a return to all classes of creditors.

At the date of this report, the Administrators were in receipt of two offers from parties interested in the restructure and recapitalisation of AnaeCo. Our assessment of each offer considered both the value of the return provided to each creditor class, completion risk of each proposal, coupled with the interests of the secured creditor, whose support was required for either proposal to succeed.

The Administrators, with the support of the secured creditor, MND, (who holds the priority charge over AnaeCo for material amounts outstanding) selected the Deed Proposal from Benelong Capital Partners Pty Ltd (or its nominee) to be put forward to creditors for their consideration at the upcoming meeting (refer to section 8.3 below).

8.2 DOCA proposal

A DOCA is an agreement between a Company and its creditors which governs how the company's affairs will be dealt with. A DOCA aims to provide a better return for creditors than an immediate winding up of the Company.

A DOCA binds all unsecured creditors, owners of property, those who lease property to the company and secured creditors, if they voted in favour of the deed.

It is the role of the deed administrator to ensure that the company carries through with the terms of the DOCA with the extent of the deed administrators' ongoing role being set out in the deed.

8.3 Deed Proposal

Benelong Capital Partners Pty Ltd (or its nominee) is proposing to undertake a restructure and recapitalisation of AnaeCo by way of a DOCA and Creditors Trust, allowing the Company to be reinstated on the ASX. A cash contribution and new share issue will be made available to AnaeCo creditors for distribution under the Creditors Trust, and provide a return to each creditor class.

The key terms of the Deed Proposal, which involves a Creditors Trust, are set out below with a DOCA term sheet attached at Appendix G:

- Following approval by creditors at the upcoming Second Meeting, the Administrators and the Proponent will execute a DOCA, and Creditors Trust incorporating the terms of the Deed Proposal;
- For the DOCA to complete, the following conditions are required to be met;
 - The Proponent to procure the necessary ASX waivers or approval to allow the reinstatement of AnaeCo on the ASX
 - Shareholder approval is received for the consolidation of the existing share base, and the issue of new shares into the Creditors Trust Fund
 - Removal of all registered security interests against the Company, including the priority charge held by the Secured Creditor, MND
 - Cash contribution of \$665,000 into the Creditors Trust Fund by the Proponent;

- Issue of new shares into the Creditors Trust Fund with a minimum value of \$320,000 at the time of re-instatement of AnaeCo on the ASX;

It is anticipated that the above will be achieved by no later than 30 June 2018.

- Once satisfied, a Creditors Trust will be established. The creditors of AnaeCo (employees, MND, and other trade creditors) will no longer be creditors of AnaeCo, but become beneficiaries under the AnaeCo Creditors Trust and participate in a distribution of the trust assets. The Creditors Trust will incorporate the same provisions under the Corporations Act that deals with the admissibility and ranking of creditor claims
- The following assets will be available in the Creditors Trust for distribution:
 - Cash contribution by the Proponent of \$665,000
 - Issue of new shares with a minimum value of \$320,000 on the re-instatement of AnaeCo onto the ASX;
 - Any residual assets held by the Deed Administrators at the time of completion under the DOCA
- The Trust Fund is to be distributed as follows:
 - 1) The shortfall (if any) to the Administrators for their approved remuneration, costs and expenses;
 - 2) The Deed Administrators' remuneration, costs and expenses (as approved);
 - 3) Trustees remuneration and expenses;
 - 4) Priority creditors (employee entitlements) to be paid in full
 - 5) Admitted unsecured creditor claims to participate in a pro-rata distribution to the capped amount of \$20,000 (approximately 4 cents/\$); and
 - 6) Finally, the balance of any trust funds to be paid to MND.

Based on our assessment of the above as detailed in section 9, the Administrators consider it likely that a return will be available to each class of creditors under this Deed Proposal.

Advantages / Disadvantages of the Deed Proposal

We set out below the following advantages of the Deed Proposal compared to a winding up scenario for the Companies:

- AnaeCo will be requoted on the ASX, providing existing shareholders (whilst diluted) with a realisable investment;
- All classes of creditors are likely to receive a distribution under the Deed Proposal, with employee's receiving full payment of amounts owing. This is a superior result than in a liquidation scenario for all creditor classes;

We set out below the following disadvantages/risks associated with the Deed Proposal:

- ASX and shareholder approval is required for the re-instatement of AnaeCo on the ASX, together with the issue of new shares that are to be made available to the Creditors Trust;
- Re-quotations risk is the responsibility of the Proponent post-DOCA and any failure to achieve re-instatement to official quotation could adversely impact the Trustee's ability to realise its shares. However, a condition of the proposed DOCA is that the ASX confirm, in writing, the conditions required for the Company being re-instated on the ASX, essentially de-risking the re-quotations process;
- Following re-quotations, the shares held by the Creditors Trust are subject to share price movements (both up and down), and further, a lack of volume may impact the trustees ability to realise the shares at the quoted price
- there is no ability to void transactions or make a claim for insolvent trading against the Directors (Liquidator recoveries) under a DOCA. We note that our preliminary investigations have not identified any such claims
- existing shareholders will have their holdings diluted, although we note that the impact of the dilution is estimated to result in a superior return to shareholders than liquidation (value of \$nil as the AnaeCo would cease to exist)

Trust matters

Where creditors of a DOCA are obliged to receive a distribution/transfer of assets from a trust, there are a number of potential taxation implications for creditors to consider. ASIC released the Regulatory Guide 82 ("RG 82") titled "External administration: Deeds of company arrangement involving a creditors' trust", which is available to creditors at the ASIC website, or is available on request from our office. The RG 82 requires the Administrators to set out relevant information for creditors which is included in this report and annexures, including the draft DOCA.

Creditors will need to consider the taxation implications of receiving a distribution of assets as a beneficiary of a Trust (as opposed to receiving a distribution as a creditor of a company), as and when they become available for distribution.

Notwithstanding the general guidance above, as every creditor may have different circumstances, creditors should seek their own independent tax advice on the potential tax implication to arise from the DOCA and trust arrangements.

Deed Proposal conclusion

All available actions and/or claims of the creditors will be preserved if the DOCA fails, in that a liquidator will ultimately be appointed, and any liquidator related recoveries may then be pursued.

The terms of the Deed Proposal are in draft form and if creditors resolve to execute the proposed DOCA, the final DOCA will be prepared and executed shortly after the upcoming creditors' meeting. Note that under Corporations Law, the DOCA must be executed within 15 business days of the resolution being carried at the upcoming meeting.

For the purposes of rule 75-225(3)(b)(vii) of the IPR, and in addition to the summary given above, a copy of the term sheet is attached as Annexure G.

9. Estimated outcome to creditors

9.1 Estimated outcome scenario

Based on the information available to the Administrators at the time of issuing this report, we set out below the estimated outcomes in the Deed Proposal and liquidation scenarios.

AnaeCo Limited Estimated return to creditors						
Item	Ref	Book value \$	DOCA ERV High \$	DOCA ERV Low \$	Liquidation ERV High \$	Liquidation ERV Low \$
Circulating assets						
Pre-appointment cash at bank	1	653,940	653,222	653,222	653,222	653,222
Debtor - Shenton Energy	2	1,298	1,298	1,298	1,298	1,298
Debtor - XEPT	3	600,000	Assigned	Assigned	Unknown	-
Prepayments	4	62,382	14,947	14,947	14,947	14,947
Long term incentive plan receivable	5	457,000	-	-	-	-
Software	6	-	Assigned	Assigned	Withheld	-
Patents and trademarks	6	492,059	Assigned	Assigned	Withheld	-
Technology and development IP	6	1,600,942	Assigned	Assigned	Withheld	-
Subsidiary investments	7	279	-	-	-	-
Trading costs	8	(470,311)	(470,311)	(490,311)	(470,311)	(490,311)
DOCA contribution	9		665,000	665,000		
New share issue	10		320,000	224,000		
Total circulating assets available to creditors		3,397,589	1,184,156	1,068,156	199,156	179,156
Non-circulating assets						
Plant and equipment (incl. office equipment)	11	4,651	11,270	11,270	11,270	11,270
Liquidator recoveries	12				Unascertained	-
Total assets available to creditors		3,402,240	1,195,426	1,079,426	210,426	190,426
Fees and costs (subject to approval)						
Administrators' fees	13		(323,130)	(323,130)	(323,130)	(323,130)
Administrators' disbursements	13		(8,078)	(8,078)	(8,078)	(8,078)
Deed Administrators' fees and costs	13		(35,875)	(35,875)		
Creditors' Trust fees and costs	13		(56,375)	(56,375)		
Liquidators' fees and costs	13				(76,875)	(51,250)
Total funds available for creditor distribution		3,402,240	771,968	655,968	(197,657)	(192,032)
AnaeCo Limited Distribution to creditors						
Item	Ref	Administrators' ERV \$	DOCA ERV High \$	DOCA ERV Low \$	Liquidation ERV High \$	Liquidation ERV Low \$
Priority creditors	14	489,217	489,217	489,217	-	-
MND (secured & unsecured claims)	15	23,557,463	262,751	146,751	-	-
Unsecured creditors	16	474,626	20,000	20,000	-	-
Total funds distributed			771,968	655,968	-	-

Our notes with respect to the above statement are set out below:

Notes

1. Available cash at bank as at 18 December 2017 realised by the Administrators
2. One trade debtor due from Shenton Energy of c.\$1.3k was received in full during the Administration
3. The Administrators wrote to XEPT immediately on appointment requesting payment of the outstanding debtor amount in full. This amount relates to services performed under a Design Engineering Services Agreement between XEPT and AnaeCo, which was entered into following a further extension under the Tripartite Agreement. The recovery of this debt from XEPT is continuing, however, has protracted due to the lack of engagement by the debtor and the termination of the Tripartite Agreement on our appointment.

Should creditors approve the Deed Proposal, this debtor (should it not be realised by completion under the DOCA) will be assigned to MND

4. Reimbursement of pre-paid insurance policies realised to date
5. Employees of the Company in 2011 were provided with a share incentive loan to purchase AnaeCo shares and the loan would be repayable upon sale of those shares when the employee resigns or the Company entered external administration. The shares are not presently saleable due to the Administration and the terms of the loan include that any shortfall between the original issue price of the shares and the net proceeds of the ultimate sale of those shares would be forgiven
6. The estimated realisable value of the Company's intellectual property is difficult to determine a value having regard to the bespoke nature of the asset. We note however, should creditors approve the Deed Proposal, these assets will be assigned to MND
7. The Company holds interests in AnaeCo subsidiaries based in the United Kingdom, United States of America and Singapore. Based on their limited book value and are utilised solely as vehicles for development of the technology in those jurisdictions, the Administrators have not provided a realisable value on these investments
8. The Administrators incurred trading costs of approximately \$470,311 to \$490,311 for the period 18 Dec 17 to 29 March 2018. We note the estimated trading shortfall includes a contingency for future administration costs not subject to creditor approval
9. The DOCA contribution is set out in the terms of the proposed DOCA discussed in further detail at section 8 of this report
10. The proceeds of the new share issue are set in the terms of the proposed DOCA discussed in further detail at section 8 of this report, including the risks associated with achieving a realisable value of \$320,000 at the time of sale by the Trustee. Accordingly, we have discounted the share value under a low scenario
11. The Company's plant and equipment assets included office equipment and a transportable laboratory and associated laboratory equipment realised for \$8.5k (excluding GST) during the Administration
12. Refer to section 7 of this report for the outcome of the Administrators' preliminary investigations in accordance with rule 75-225 of the IPR. Based on those preliminary investigations, the Administrators have not identified any recoverable transactions
13. Actual or expected remuneration and costs of the Administrators, and (if appointed) the Deed Administrators, Creditors' Trustees and the Liquidators. For more information, refer to Annexure H of this report
14. Employee entitlements in the Liquidation scenario include outstanding annual leave, long service leave and payment in lieu of notice. Excluded employees (i.e. directors) are unsecured creditors for any entitlements exceeding statutory caps set out under section 556 of the Act
15. Monadelphous submitted a proof of debt (for voting purposes only) on 22 December 2017 in the amount of \$23.6m. This claim comprises a secured component under the loan agreement of \$18.2m, and an amount recorded in the Company's financial accounts classified as a trade creditor of \$5.4m. No formal adjudication of this claim has been made
16. Trade creditors are estimated based on information available to the Administrators and does not represent an adjudication or admission of claims. Trade creditors does not include employees, other than Excluded Employee claims. No formal adjudication of these claims has been made

9.2 Estimated return in a winding up scenario

In a winding up scenario, it is unlikely that any class of creditor will receive a return, including priority (employee entitlements), which would require the assistance of the Department of Employment's Fair Entitlement Guarantee scheme to fund the liquidation to meet outstanding entitlements.

9.2.1 Effect of liquidation on Employees

FEG only available to redundant employees of Company in Liquidation

Where a staff member's employment has been terminated as a consequence of insolvency, i.e liquidation, their employee entitlements are afforded a statutory priority under the Act out of any available funds. These include any outstanding wages, pay in lieu of notice, superannuation, annual leave, long service leave and redundancy. There are certain caps in relation to 'excluded employees' including directors.

The FEG payment scheme

If the Company was to proceed into Liquidation at the meeting of creditors, former employees would be eligible to lodge a claim for entitlements with FEG, the Fair Entitlements Guarantee scheme including for wages, annual leave, long service leave, payment in lieu of notice and redundancy pay.

Where FEG meets a claim it has a subrogated right in the liquidation in respect of any recoveries.

Since 1 July 2016, the Department of Employment has made a change to this process, with all claims approved by FEG being paid directly by the Department of Employment into the individual employees' nominated bank account.

9.3 Estimated return under the proposed DOCA

Under the terms of the proposed DOCA (discussed in further detail at section 8 of this report), the Administrators estimate the following returns to each class of creditor:

- Full return (100 cents/\$) with respect to employee entitlements (excluding 'excluded employees')
- Cash distribution of between approximately 0.6 and 1.1 cents/\$ return to MND with respect to their secured and unsecured claims, in addition to the assignment of the IP and XEPT receivable.
- Approximately 4.2 cents/\$ return to unsecured creditors (including 'excluded employees' claims)

10. Options available to creditors

10.1 Options

Pursuant to rule 75-225(3) of the IPR, we provide creditors with a statement setting out our opinion as to whether or not it is in creditors' interests for:

- The Administration to end, or
- The company to execute a Deed of Company Arrangement; or
- The company to be placed into Liquidation.

10.2 The administration to end

Creditors may resolve that the Administration end at the Second Meeting and the Company return under the control of their directors. The most likely scenario that would prompt such a resolution would be if the Company are solvent and able to continue as a going concern.

At this stage the Company remains insolvent. For the Company to be restored to a solvent position, a number of events would need to occur, including:

- Resolution of the Company financial position;
- Sale of the Company' assets, and/or recapitalisation of the Company; and
- Settlement of creditor claims.

Given the Company's current financial status and extent of creditor claims, it is my opinion that it is not in the creditors' interest for the Administration to end.

10.3 Deed of company arrangement

As outlined in section 8 of this report, the Administrators have detailed the Deed Proposal from Benelong Capital Partners Pty Ltd being put forward to creditors for their consideration and approval at the upcoming meeting.

As detailed in section 9, this Deed Proposal provides a return to each creditor class of AnaeCo, which exceeds the \$nil returns that would be available in a liquidation (save for employees, who have the protection under the Governments Fair Entitlement Guarantee scheme).

Having regard to our comments and analysis set out in sections 8 and 9 of this report, and based on our assessment of potential outcomes under the DOCA (in comparison to a liquidation), **it is the Administrators' recommendation that creditors resolve for AnaeCo to enter into the proposed DOCA.**

10.4 Liquidation

Creditors may resolve to wind up the Company. Pursuant to section 446A of the Act, if such a resolution is passed, the Company will be immediately placed into liquidation and the Administrators will become the Liquidators.

In the event that the Company is placed into liquidation, a return to creditors is available from the following sources:

- Realisation of the Company's assets; and
- Recovery actions available to a liquidator.

Should the Company be wound up at the forthcoming meeting of creditors, it is unlikely to result in a return to the Company's secured, and ordinary unsecured creditors (refer to section 9) that is superior to the proposed DOCA.

Based upon the expected return under the DOCA, it is our opinion that it is not in the creditors' interests for AnaeCo to be wound up.

10.5 Administrators' Opinion

Based on the estimated returns to all classes of creditors, it is our opinion that it is in creditors' interests for AnaeCo to execute the proposed DOCA.

11. Remuneration

Pursuant to IPS 60-10 the Administrator is entitled to such remuneration as is determined by agreement between the Administrator and the committee of creditors (if any), or by resolution of the Company creditors, or if there is no such agreement or resolution – by the Court. Where the remuneration is determined by agreement with the committee of creditors or by resolution of the Company' creditors, the Court may, on the application of ASIC, the Administrator or of an officer, member or creditors of the Company, review the remuneration and confirm, increase or reduce it.

An Administrator, when seeking approval for remuneration, should provide sufficient information to enable creditors to properly consider the reasonableness of the remuneration sought. If creditors do not believe that they have received sufficient information in this report to allow them to approve the Administrators fees at the forthcoming meeting of creditors then I request that you immediately contact this office to determine whether further information can be provided.

In accordance with IPR 70-45, before remuneration is fixed by the creditors the Administrators must prepare a report setting out:

- (i) Such matters as will enable the members of the committee of creditors or the creditors to make an informed assessment as to whether the proposed remuneration is reasonable
- (ii) A summary description of the major tasks performed, or likely to be performed
- (iii) The costs associated with each of those major tasks
- (iv) Give a copy of the report to each member of the committee of creditors or creditors at the same time as they are notified of the relevant meeting

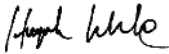
The Administrators', Deed Administrators' and Liquidators' remuneration discussed above and for which I will seek creditors' approval, is discussed in the Remuneration Report, marked **Annexure H**.

12. Closing

The Administrators will advise creditors in writing, if applicable and practicable, of any additional matter that comes to their attention after the dispatch of this report that, in their view, is material to creditors' deliberations.

Should you have any queries with respect to this report, or the meeting of creditors convened for Tuesday, 10 April 2018, please contact Luke Parker of my staff via email at lparker1@kpmg.com.

Dated this 3rd day of April 2018



Hayden White
Joint and Several Administrator

A. Notice of appointment

Form 505

Corporations Act 2001
**415(1), 427(2), 427(4), 450A(1)(a),
499(2C)(a) & (b), 537(1) & (2),**
Insolvency Practice Rules (Corporations) 2016
s70-60(2)

External Administration or Controllership Appointment of an administrator or controller

Liquidator details

Registered liquidator number

409041

Registered liquidator name

HAYDEN LEIGH WHITE

Company details

Company name

ANAECO LIMITED

ACN

087 244 228

Company industry type

Manufacturing

Add a new appointment

Appointee details

Liquidator No. **409041**

Person Name

HAYDEN LEIGH WHITE

Address

**KPMG, LEVEL 8 235 ST GEORGES
TERRACE PERTH WA 6000 Australia**

Type of Appointment

**Appointed Jointly and
Severally**

Appointee details

Liquidator No. **448144**

Person Name

MATTHEW DAVID WOODS

Address

**KPMG, LEVEL 8 235 ST GEORGES
TERRACE PERTH WA 6000 Australia**

Type of Appointment

**Appointed Jointly and
Severally**

Appointment Details

Provide the date of appointment.

18-12-2017

Type of administrator

Administrator

Method of appointment

appointment by instrument

Date of instrument:

25-09-2012

Description of
instrument

General Security Agreement

Instrument is registered in

Personal Property Securities Register

Security Interest

201210170020065

Schedule of Property

**All present and after-acquired property and undertakings
of the Company subject to the appointment of
Administrators and any future Administrators'
recoveries.**

Authentication

This form has been authenticated by

Name **HAYDEN LEIGH WHITE**

This form has been submitted by

Name **Hayden Leigh WHITE**

Date **18-12-2017**

Payment

You need to pay the fee (and any late fees if required) by Bpay or cheque in accordance with the instructions on your invoice

For more help or information

Web www.asic.gov.au
Ask a question? www.asic.gov.au/question
Telephone 1300 300 630

B. Declaration of Independence, Relevant Relations and Indemnities



Declaration of Independence, Relevant Relationships and Indemnities

AnaeCo Limited (Administrators Appointed)

ACN 087 244 228 (“the Company” or “AnaeCo”)

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/debtor and others within the previous 24 months;
 - iii any prior professional services for the company/debtor 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 ourselves, Hayden Leigh White and Matthew David Woods, our partners, the KPMG Australia Partnership ("KPMG Australia"), a member firm of the KPMG network of independent member firms affiliated with the KPMG International Cooperative, or associated entities.

A. Independence

We, Hayden Leigh White and Matthew David Woods of KPMG Australia have undertaken a proper assessment of the risks to our independence prior to accepting the appointment as Voluntary Administrators of AnaeCo 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

This appointment was referred to us by Monadelphous Group Limited (“Monadelphous”). Monadelphous holds a registered security interest over all, or substantially all of the Company’s property under which our appointment has been made.

We believe that this referral and our work previously undertaken does not result in a conflict of interest or duty because:

- Referrals by secured creditors, business advisors, lawyers and accountants are commonplace and do not impact our independence in carrying out our duties as administrators;
- The work that KPMG may undertake for Monadelphous from time to time, will not influence our ability to fully comply with the statutory and fiduciary obligations associated with the voluntary administration of AnaeCo in an objective and impartial manner;

Following notice provided to Monadelphous on 18 December 2017 that the board of directors of AnaeCo Ltd had resigned from office, a meeting was held between Hayden White (KPMG), Phil Trueman (Monadelphous) and David Lymburn (former Managing Director, AnaeCo) to discuss:



- Monadelphous' termination of the tri-partite agreement between AnaeCo, Monadelphous and Xiaoqing Environmental Protection Technology (XEPT), and the financial impact on AnaeCo's financial position.
- In the absence of any registered company directors, it was Monadelphous' intention to appoint Hayden White and Matthew Woods as voluntary administrators of AnaeCo;
- The voluntary administration process generally and its impact on key stakeholders of AnaeCo.

We received no remuneration with respect to this advice.

The appointment was effected by Monadelphous pursuant to section 436C of the Corporations Act 2001 at approximately 2:30pm (WST) on 18 December 2017.

In our opinion, this meeting does not affect our independence for the following reasons:

- Our discussions were limited to the financial position of AnaeCo only. No advice was given to Mr Lymburn, as former Managing Director of AnaeCo;
- The Court's and the Australian Restructuring, Insolvency and Turnaround Association ("ARITA") Code of Professional Practice recognise the need for practitioners to provide advice on an insolvency process and options available and do not consider that such advice results in a conflict or an impediment to accepting an appointment
- The nature of any advice provided at this meeting would not be subject to review and challenge during the administration
- Any advice provided during this meeting will not influence our ability to fully comply with the statutory and fiduciary obligations associated with the administration in an objective and impartial manner.

We have provided no other information or advice to AnaeCo, its directors or its advisors prior to our appointment beyond that outlined in this DIRRI.

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

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

Name	Nature of relationship	Reasons
Monadelphous	<p>On 22 September 2017, KPMG Restructuring Services was engaged by Monadelphous to undertake a limited scope Independent Business Review of AnaeCo. This review focused on AnaeCo's financial viability having regard to the protracted completion of the abovementioned tri-partite agreement, as well as enforcement options available to Monadelphous.</p> <p>The engagement was performed over a two-month period, and we incurred professional fees of \$15,362.19, inclusive of GST and disbursements.</p>	<p>We believe that this relationship does not result in a conflict of interest or duty because:</p> <ul style="list-style-type: none"> - The work undertaken during the limited scope independent business review of AnaeCo was based on publicly available information only, and has assisted in developing our understanding of the Company and its activities; - No discussions were held with representatives of AnaeCo during our engagement; - The nature of the work undertaken would not be subject to review and challenge during the course of our appointment, and will not influence



	From time to time, KPMG provides services to Monadelphous which are unrelated to the Company.	our ability to fully comply with the statutory and fiduciary obligations associated with the administration in an objective and impartial manner - Other services provided to Monadelphous by KPMG are unrelated to the Company
--	---	--

iii. Prior Professional services to the Insolvent

Neither we, nor our firm, have provided any professional services to AnaeCo in the previous 24 months.

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

C. Indemnities and up-front payments

We have not been indemnified in relation to this administration, other than any indemnities that we may be entitled to under statute and we have not received any up-front payments in respect of our remuneration or disbursements.

Dated: 19 December 2017

Hayden Leigh White

Matthew David Woods

Note:

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

C. Notice of meeting

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

**AnaeCo Limited (Administrators Appointed) ACN 087 244 228
("the Company")**

Notice is given that a second meeting of the creditors of the Company will be held as follows:

Date: Tuesday, 10 April 2018
Time: 2:30PM (AWST)
Address: KPMG, Level 8, 235 St Georges Terrace, Perth, Western Australia 6000

Agenda

The purpose of the meeting is to:

1. To consider the Administrators' report in accordance with section 439A of the Corporations Act 2001 and pursuant to rule 75-225(3) of the Insolvency Practice Rules 2016 in relation to the Company's affairs and any other matters raised relating to the Company's future and the various options available to creditors:
2. To resolve that:
 - a) the Company execute a deed of company arrangement, if proposed; or
 - b) the Administration should end; or
 - c) the Company be wound up; or
 - d) the meeting be adjourned.
3. Consider and if thought fit determine the Administrators' remuneration and internal disbursements.
4. If the company executes a deed of company arrangement:
 - to determine the remuneration and internal disbursements of the Deed Administrators; and
5. If the company is wound up:
 - to determine the remuneration and internal disbursements of the Liquidators;
 - to consider the appointment of a Committee of Inspection; and
 - to consider authorising the Liquidators to dispose of the books and records of the Company after finalisation, subject to obtaining ASIC approval.

To discuss any other relevant business which may arise.

Attending and voting at the meeting

Creditors are invited to attend the meeting, however they are not entitled to participate and vote at a meeting unless:

- **Proof of debt:** They have lodged with the Administrators particulars of the debt or claim and the claim has been admitted, wholly or in part, by the Administrators. If a proof of debt has already been lodged, they do not need to do so again. Refer to Note 1 for further guidance on entitlement to vote.
- **Proxies or attendance:** They are either present in person or by electronic facilities (if being made available) or validly represented by proxy, attorney or an authorised person under s250D of the Corporations Act. If a corporate creditor or represented, a proxy form, power of attorney or evidence of appointment of a company representative pursuant to Section 250D of the Corporations Act 2001 ("the Act") must be validly completed and provided to the Administrators at or before the meeting.

A proxy is only valid for a particular meeting and will need to be resubmitted even if previously provided.

To enable sufficient time to review, proofs of debt and proxies (or document authorising the representation) should be submitted via email to lparker1@kpmg.com.au or to GPO Box A29, Perth WA 6837, by no later than 3:00pm on Monday, 9 April 2018. If you choose to return these documents, please allow sufficient time for the documents to be received prior to the due date.

Electronic facilities

Electronic facilities will be made available at the meeting via conference telephone call. To access those facilities, you need to provide a statement by email to Luke Parker at lparker1@kpmg.com.au no later than 2 business days before the meeting which sets out:

- **Name:** The name of the person and of the proxy or attorney (if any)
- **Address:** An address to which notices to the person, proxy or attorney may be sent
- **Contact:** The method of contacting the person, proxy or attorney for the purposes of the meeting.
- **Documentation:** Submit the necessary Proof of Debt and Appointment of Proxy forms

Any queries should be directed to Luke Parker at lparker1@kpmg.com.au.

Dated 3rd April 2018



Joint & Several Administrator

KPMG
Level 8, 235 St Georges Terrace
Perth WA 6000

Note 1: Entitlement to vote and completing proofs

IPR (Corp) 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.

D. Proof of debt

FORM 535

subregulation 5.6.49(2)
Corporations Act 2001

FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)

To the Voluntary Administration of AnaeCo Limited (Administrators Appointed) ACN 087 244 228 (the "Company")

1. This is to state that the Company was on 18 December 2017, and still is, justly and truly indebted to: _

_____ full name, ABN and address of the creditor

and, if applicable, the creditor's partners. If prepared by an employee or agent of the creditor, also insert a description of the occupation of the creditor) for _____ dollars and _____ cents

Particulars of the debt are:

Table with 4 columns: Date, Consideration (state how the debt arose), Amount, Remarks (include details of voucher substantiating payment)

\$

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).

Table with 5 columns: Date, Drawer, Acceptor, Amount, Due Date

\$

3. Signed by (select option):

[] 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, remains unpaid and unsatisfied.

[] I am the creditor's agent authorised in writing to make this statement in writing. I know the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, remains unpaid and unsatisfied.

Signature: _____ Dated: _____

Name: _____ Occupation: _____

Address: _____

RECEIVE REPORTS BY EMAIL

Yes No

Do you wish to receive all future reports and correspondence from our office via email? [] []

Email:.....

E. Proxy form

APPOINTMENT OF PROXY	FORM 532 Insolvency Practice Rules 75-25 <i>Corporations Act 2001</i>
AnaeCo Limited (Administrators Appointed) ACN 087 244 228 (the "Company")	

Contact details and appointment of a Proxy (please complete)

*I/*We _____ (Full name) _____ (Telephone number)
of _____ (Company / Creditor name),
a creditor of the Company, appoint: _____ (Name of Proxy)
of _____ (Address of Proxy)
or in his or her absence _____ (Alternative Proxy)

as *my/*our *general/*special proxy to vote at the second meeting of creditors to be held on **Tuesday, 10 April 2018 at 2:30PM (AWST)** at the offices of KPMG, Level 8, 235 St Georges Terrace, Perth, Western Australia 6000, or at any adjournment of that meeting.

**strike out which is inapplicable.*

If a special proxy, specify how you wish your proxy to vote for each of the resolutions:

	For	Against	Abstain
Resolutions			
That the company execute a Deed of Company Arrangement.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
That the administration should end.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
That the company be wound up (recommended).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fee resolutions			
1 That the remuneration of the Voluntary Administrators in respect of AnaeCo Limited, their partners and staff from 18 December 2017 to 23 March 2018 be approved in the amount of \$283,129.50 exclusive of GST and disbursements, calculated in accordance with the KPMG Restructuring Services guide to hourly rates as set out in the Administrators' initial remuneration notice dated 19 December 2017 contained within the report to creditors dated 19 December 2017, and that such fees can be drawn for payment immediately or as required from the assets of the Company, or otherwise.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2 That the future remuneration of the Voluntary Administrators in respect of AnaeCo Limited, their partners and staff from 24 March 2018 to the date of the winding up or the execution of the DOCA, be approved up to a capped amount of \$40,000.00 exclusive of GST and disbursements, calculated in accordance with the KPMG Restructuring Services guide to hourly rates as set out in the Administrators' initial remuneration notice dated 19 December 2017 contained within the report to creditors dated 19 December 2017, and that such fees can be drawn for payment immediately or as required from the assets of the Company, or otherwise	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3a That the future remuneration of the Deed Administrators in respect of AnaeCo Limited, their partners and staff from execution of the DOCA to completion of the DOCA, be approved up to a maximum amount of \$35,000.00 plus GST and disbursements, calculated in accordance with the KPMG guide to hourly rates as set out in the Administrators' initial advice to creditors dated 19 December 2017 contained within the report to creditors dated 19 December 2017, and that such fees can be drawn for payment immediately or as required from the assets of the Company, or otherwise	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3b That the future remuneration of the Liquidators in respect of AnaeCo Limited, their partners and staff from commencement to the end of the Liquidation, be approved up to a capped amount of \$75,000.00 exclusive of GST and disbursements, calculated in accordance with the KPMG Restructuring Services guide to hourly rates as set out in the Administrators' initial remuneration notice dated 19 December 2017 contained within the report to creditors dated 19 December 2017, and that such fees can be drawn for payment immediately or as required from the assets of the Company, or otherwise	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Internal disbursement resolutions

- 4 That the internal disbursements claimed by KPMG in the matter of AnaeCo Limited from 18 December 2017 to 23 March 2018 be approved in the amount of \$7,078.24 exclusive of GST, calculated in accordance with the specified rate for internal disbursements as set out in the Administrators' initial remuneration notice dated 19 December 2017 contained within the report to creditors dated 19 December 2017, and that such internal disbursements can be drawn for payment immediately or as required from the assets of the Company, or otherwise □ □ □
- 5 That the future internal disbursements claimed by KPMG in the matter of AnaeCo Limited from 24 March 2018 to the date of the winding up or the execution of the DOCA, be approved up to a capped amount of \$1,000.00 exclusive of GST, calculated in accordance with the specified rate for internal disbursements as set out in the Administrators' initial remuneration notice dated 19 December 2017 contained within the report to creditors dated 19 December 2017, and that such internal disbursements can be drawn for payment immediately or as required from the assets of the Company, or otherwise □ □ □
- 6a That the future internal disbursements claimed by KPMG in the matter of AnaeCo Limited from the execution of the DOCA to the completion of the DOCA, be approved up to a capped amount of \$875.00 exclusive of GST, calculated in accordance with the specified rate for internal disbursements as set out in the Administrators' initial remuneration notice dated 19 December 2017 contained within the report to creditors dated 19 December 2017, and that such internal disbursements can be drawn for payment immediately or as required from the assets of the Company, or otherwise □ □ □
- 6b That the future internal disbursements claimed by KPMG in the matter of AnaeCo Limited from the commencement to the end of the Liquidation, be approved up to a capped amount of \$1,875.00 exclusive of GST, calculated in accordance with the specified rate for internal disbursements as set out in the Administrators' initial remuneration notice dated 19 December 2017 contained within the report to creditors dated 19 December 2017, and that such internal disbursements can be drawn for payment immediately or as required from the assets of the Company, or otherwise □ □ □

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

Signature¹ of individual or persons² authorised by corporate resolution to represent the corporation

OR The common seal was affixed³ hereto in the presence of:

Print Name: _____

Director: _____

Director / Company Secretary

Dated this _____ day of _____ 2018

¹ The signature of the creditor is not to be attested by the person nominated as proxy.

² A corporation may only be represented by proxy or by an attorney appointed pursuant to Corporations Regulations 5.6.28 and 5.6.31A respectively, or, by a representative appointed under section 250D or the Corporations Act 2001. Copy of authority/power to attorney to be annexed.

³ The method of affixing the common seal is prescribed in Section 127(2) of the Corporations Act 2001 and, usually, the creditor corporation's constitution.

Certificate of Witness

Please Note: This certificate is to be completed only where the person giving the proxy is blind or incapable of writing. The signature of the creditor is not to be attested by the person nominated as proxy.

I, of certify that the above instrument appointing a proxy was complete by me in the presence of and at the request of the person appointing the proxy and read to that person before they attached their signature or mark to the instrument.

Dated this _____ day of _____ 2018

Signature of witness

Description

Place of residence

F. Creditor Information Sheet: A Guide for Creditors



ASIC

Australian Securities & Investments Commission

INFORMATION SHEET 74

Voluntary administration: a guide for creditors

If a company is in financial difficulty, it can be put into voluntary administration.

This information sheet provides general information for unsecured creditors of companies in voluntary administration.

Who is a creditor?

You are a creditor of a company if the company owes you money. Usually, a creditor is owed money because they have provided goods or services, or made loans to the company.

An employee owed money for unpaid wages and other entitlements is a creditor.

A person who may be owed money by the company if a certain event occurs (e.g. if they succeed in a legal claim against the company) is also a creditor, and is sometimes referred to as a 'contingent' creditor. There are generally two categories of creditor: secured and unsecured:

- A secured creditor is someone who has a 'charge', such as a mortgage, over some or all of the company's assets, to secure a debt owed by the company. Lenders usually require a charge over company assets when they provide a loan.
- An unsecured creditor is a creditor who does not have a charge over the company's assets.

Employees are a special class of unsecured creditors. Their outstanding entitlements are usually paid in priority to the claims of other unsecured creditors. If you are an employee, see ASIC's information sheet INFO 75 *Voluntary administration: a guide for employees*.

The purpose of voluntary administration

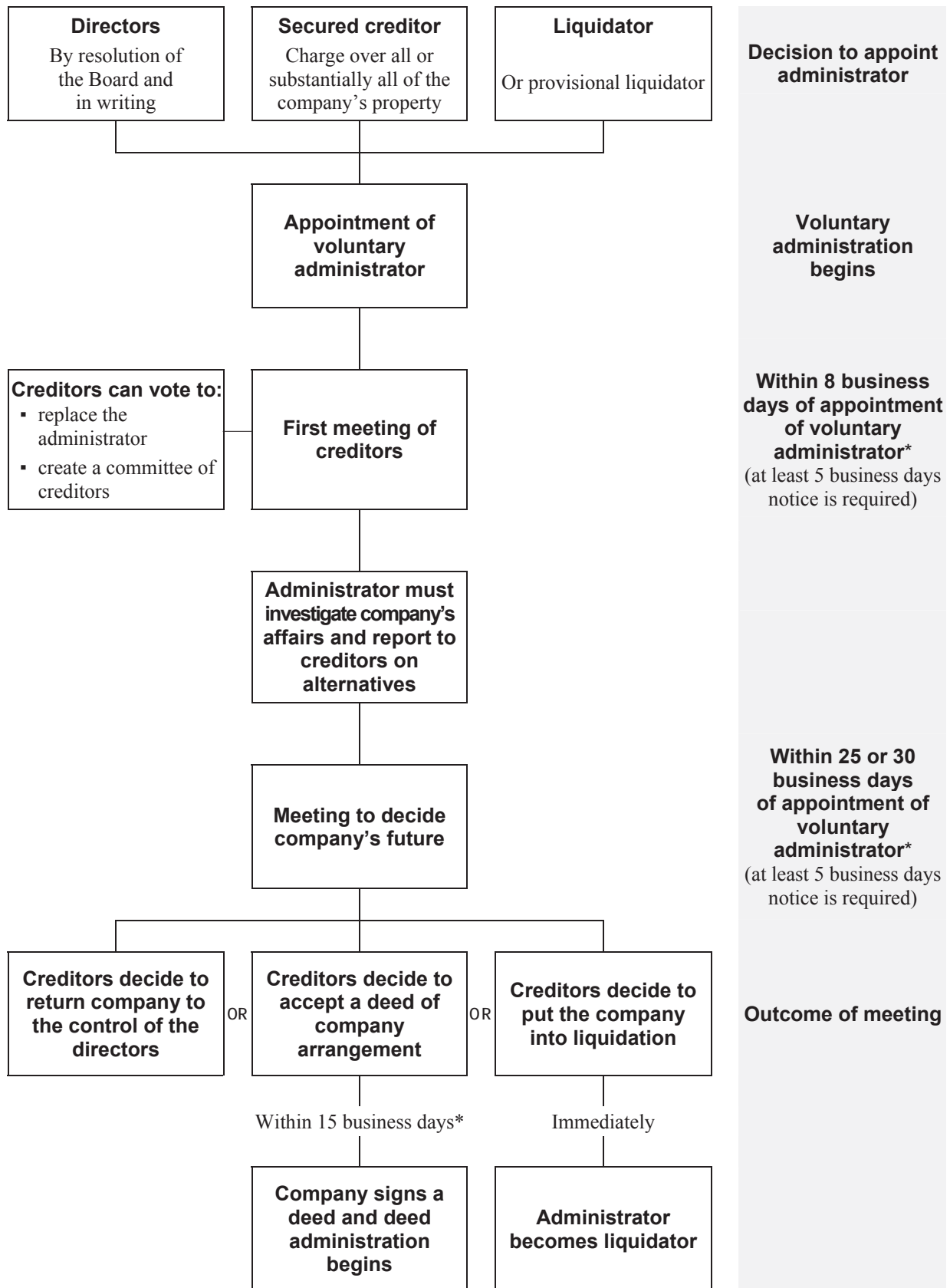
Voluntary administration is designed to resolve a company's future direction quickly (Figure 1 summarises the process). An independent and suitably qualified person (the voluntary administrator) takes full control of the company to try to work out a way to save either the company or its business.

If it isn't possible to save the company or its business, the aim is to administer the affairs of the company in a way that results in a better return to creditors than they would have received if the company had instead been placed straight into liquidation. A mechanism for achieving these aims is a deed of company arrangement.

A voluntary administrator is usually appointed by a company's directors, after they decide that the company is insolvent or likely to become insolvent. Less commonly, a voluntary administrator may be appointed by a liquidator, provisional liquidator, or a secured creditor.

Important note: This information sheet contains 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. This document 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.

Figure 1: The voluntary administration process



* Unless the court allows an extension of time.

A company in voluntary administration may also be in receivership: see ASIC information sheet INFO 54 *Receivership: a guide for creditors*.

The voluntary administrator's role

After taking control of the company, the voluntary administrator investigates and reports to creditors on the company's business, property, affairs and financial circumstances, and on the three options available to creditors. These are:

- end the voluntary administration and return the company to the directors' control
- approve a deed of company arrangement through which the company will pay all or part of its debts and then be free of those debts, or
- wind up the company and appoint a liquidator.

The voluntary administrator must give an opinion on each option and recommend which option is in the best interests of creditors.

In doing so, the voluntary administrator tries to work out the best solution to the company's problems, assesses any proposals put forward by others for the company's future, and compares the possible outcomes of the proposals with the likely outcome in a liquidation.

A creditors' meeting is usually held about five weeks after the company goes into voluntary administration to decide on the best option for the company's future. In complex administrations, this meeting may be held later if the court consents.

The voluntary administrator has all the powers of the company and its directors. This includes the power to sell or close down the company's business or sell individual assets in the lead up to the creditors' decision on the company's future.

Another responsibility of the voluntary administrator is to report to ASIC on possible offences by people involved with the company.

Although the voluntary administrator may be appointed by the directors, they must act fairly and impartially.

Effect of appointment

The effect of the appointment of a voluntary administrator is to provide the company with breathing space while the company's future is resolved. While the company is in voluntary administration:

- unsecured creditors can't begin, continue or enforce their claims against the company without the administrator's consent or the court's permission
- owners of property (other than perishable property) used or occupied by the company, or people who lease such property to the company, can't recover their property
- except in limited circumstances, secured creditors can't enforce their charge over company property
- a court application to put the company in liquidation can't be commenced, and
- a creditor holding a personal guarantee from the company's director or other person can't act under the personal guarantee without the court's consent.

Voluntary administrator's liability

Any debts that arise from the voluntary administrator purchasing goods or services, or hiring, leasing, using or occupying property, are paid from the available assets as costs of the voluntary administration. If there are insufficient funds available from asset realisations to pay these costs, the voluntary administrator is personally liable for the shortfall. To have the benefit of this protection, you should ensure you receive a purchase order authorised in the manner advised by the voluntary administrator.

The voluntary administrator must also decide whether to continue to use or occupy property owned by another party that is held or occupied by the company at the time of their appointment.

Within five business days after their appointment, the voluntary administrator must notify the owner of property whether they intend to continue to occupy or use the property. If the voluntary administrator decides to continue to do so, they will be personally liable for any rent or amounts payable arising after the end of the five business days.

Amounts that become due to employees after the date of the appointment of the voluntary administrator have a priority claim against the company's assets as a cost of the administration. However, the voluntary administrator does not become personally liable for such amounts unless the voluntary administrator adopts employees' contracts of employment or enters into new employment contracts with them.

Creditors' meetings

Two meetings of creditors must be held during the voluntary administration.

First creditors' meeting

The voluntary administrator must call the first creditors' meeting within eight business days after the voluntary administration begins.

At least five business days before the meeting, the voluntary administrator must notify as many creditors as practical in writing and advertise the meeting. The advertisement must appear in a newspaper circulating in the states or territories in which the company has its registered office or carries on its business.

The voluntary administrator must send to creditors, with the notice of meeting, declarations about any relationships they may have, or indemnities they have been given, to allow creditors to consider the voluntary administrator's independence and make an informed decision about whether they want to replace them with another voluntary administrator of the creditors' choice.

The purpose of the first meeting is for creditors to decide two questions:

- whether they want to form a committee of creditors, and, if so, who will be on the committee, and
- whether they want the existing voluntary administrator to be removed and replaced by a voluntary administrator of their choice.

The role of a committee of creditors is to consult with the voluntary administrator about matters relevant to the voluntary administration and receive and consider reports from the voluntary administrator. The committee can also require the voluntary administrator to report to them about the voluntary administration. It may also approve the voluntary administrator's fees.

A creditor who wishes to nominate an alternative voluntary administrator must approach a registered liquidator before the meeting and get a written consent from that person that they would be prepared to act as voluntary administrator. The proposed alternative administrator should give to the meeting declarations about any relationships they may have, or indemnities they have been given. The voluntary administrator will only be replaced if the resolution to replace them is passed by the creditors at the meeting.

To be eligible to vote at this meeting, you must lodge details of your debt or claim with the voluntary administrator (discussed further below).

This meeting can be chaired by either the voluntary administrator or one of their senior staff.

Second creditors' meeting (to decide the company's future)

After investigating the affairs of the company and forming an opinion on each of the three options available to creditors (outlined above), including an opinion as to which option is in the best interests of creditors, the administrator must call a second creditors' meeting. At this meeting, creditors are given the opportunity to decide the company's future.

This meeting is usually held about five weeks after the company goes into voluntary administration (six weeks at Christmas and Easter).

However, in complex voluntary administrations, often more time is needed for the voluntary administrator to be in a position to report to creditors. In these circumstances, the court can approve an extension of time to hold the meeting.

The voluntary administrator must chair this meeting.

In preparation for the second meeting, the voluntary administrator must send creditors the following documents at least five business days before the meeting:

- a notice of meeting
- the voluntary administrator's report, and
- a statement about any proposals for a deed of company arrangement.

These will be accompanied by:

- a claim form (usually a 'proof of debt' form), and
- a proxy voting form.

The meeting must also be advertised.

Either or both the first and second creditors' meeting may be held using telephone or videoconferencing facilities.

Voluntary administrator's report

You should read the voluntary administrator's report before you attend the second meeting or decide whether you want to appoint someone else to vote on your behalf at that meeting. This report must give sufficient information to explain the company's business, property and affairs, and the reasons for the current financial situation, to enable you to make an informed decision about the company's future.

The report should also provide an analysis of any proposals for the future of the company, including the possible outcomes, as well as a comparable estimate of what would be available for creditors in a liquidation.

Finally, the report should include the voluntary administrator's opinion on each of the options available to creditors, as well as an opinion on which is in the best interests of creditors. As noted above, the options are:

- end the voluntary administration and return the company to the directors' control
- approve a deed of company arrangement (if one is proposed), or
- put the company into liquidation.

Voluntary administrator's statement about deed

If there are proposals for a deed of company arrangement, the voluntary administrator must provide creditors with a statement giving enough details of each proposal to enable creditors to make an informed decision. The types of proposals allowed in a deed of company arrangement are very flexible.

Typically, a proposal will provide for the company to pay all or part of its debts, possibly over time, and then be free of those debts. It will often provide for the company to continue trading. How these things will happen varies from case to case, as the terms allowed in a deed of company arrangement are also very flexible. The contents of a deed of company arrangement are discussed below.

You should insist on being provided with as much information about the terms of the proposed deed as possible, before the creditors' meeting. The minimum contents of a deed of company arrangement, discussed below, provide a guide on the information you might request if it hasn't already been provided.

You should also contact the voluntary administrator before the meeting if you believe the report to creditors does not contain sufficient information to enable you to make a decision about the company's future.

Voting at a creditors' meeting

To vote at any creditors' meeting you must lodge details of your debt or claim with the voluntary administrator. Usually, the voluntary administrator will provide you with a form called a 'proof of debt' to be completed and returned before the meeting.

The chairperson of the meeting decides whether or not to accept the debt or claim for voting purposes. The chairperson may decide that a creditor does not have a valid claim or the amount of the debt cannot be determined with any certainty at the date of the meeting. In this case, they may not allow the creditor to vote at all, or only to vote for a debt of \$1. This decision is only for voting purposes. It is not relevant to whether a creditor will receive a dividend.

An appeal against a decision by the chairperson to accept or reject a proof of debt or claim for voting purposes may be made to the court within 14 days after the decision.

A secured creditor is entitled to vote for the full amount of their debt without having to deduct the value of their security.

Voting by proxy

You may appoint a proxy to attend and vote at a meeting on your behalf. A proxy can be any person who is at least 18 years old. Creditors who are companies will have to nominate a person as proxy so that they can participate in the meeting. This is done using a form sent out with the notice of meeting. The completed proxy form must be provided to the voluntary administrator before the meeting. You can fax the proxy form to the voluntary administrator, but must lodge the original within 72 hours of sending the faxed copy.

An electronic form of proxy may be used if the liquidator allows electronic lodgement, provided there is a way to authenticate the appointment of the proxy (e.g. by scanning and e-mailing a signature or using a digital signature).

You can specify on the proxy form how the proxy is to vote on a particular resolution and the proxy must vote in accordance with that instruction. This is called a 'special proxy'. Alternatively, you can leave it to the proxy to decide how to vote on each of the resolutions put before the meeting. This is called a 'general proxy'.

You can appoint the chairperson to represent you either through a special or general proxy. The voluntary administrator or one of their partners or employees must not use a general proxy to vote in favour of a resolution approving payment of the voluntary administrator's fees.

Manner of voting

A vote on any resolution put to a creditors' meeting may be taken by creditors stating aloud their agreement or disagreement, or by a show of hands. Sometimes a more formal voting procedure called a 'poll' is taken.

If voting is by show of hands or by verbally signalling agreement, the resolution is passed if a majority of those present indicate agreement. It is up to the chairperson to decide if this majority has been reached.

After the vote, the chairperson must tell those present whether the resolution has been passed or lost. If the chairperson is unable to determine the outcome of a resolution on a show of hands, they may decide to conduct a poll.

Alternatively, a poll can be demanded by at least two people present who are entitled to vote, or someone who holds more than 10% of the votes of those entitled to vote at the meeting. The chairperson will determine how this poll is taken.

If you intend to demand that a poll be taken, you must do so before, or as soon as, the chairperson has declared the result of a vote taken by show of hands or voices.

When a poll is conducted, a resolution is passed if:

- more than half the number of creditors who are voting (in person or by proxy) vote in favour of the resolution, and
- those creditors who are owed more than half of the total debt owed to creditors at the meeting vote in favour of the resolution.

This is referred to as a 'majority in number and value'. If a majority in both number and value is not reached under a poll (often referred to as a deadlock), the chairperson has a casting vote.

Chairperson's casting vote

When a poll is taken and there is a deadlock, the chairperson may use their casting vote either in favour of or against the resolution. The chairperson may also decide not to use their casting vote.

The chairperson must inform the meeting, and include in the written minutes of meeting that are lodged with ASIC, of the reasons why they cast their vote in a particular way or why they chose not to use their casting vote.

If you are dissatisfied with how the chairperson exercised their casting vote or failed to use their casting vote, you may apply to the court for a review of the chairperson's decision. The court may vary or set aside the resolution or order that the resolution is taken to have been passed.

Votes of related creditors

If directors and shareholders, their spouses and relatives and other entities controlled by them are creditors of the company, they are entitled to attend and vote at creditors' meetings, including the meeting to decide the company's future.

If a resolution is passed, or defeated, based on the votes of these related creditors, and you are dissatisfied with the outcome, you may apply to the court for the resolution to be set aside and/or for a fresh resolution to be voted on without related creditors being entitled to vote. Certain criteria must be met before the court will make such an order (e.g. the original result of the vote being against the interests of all or a class of creditors).

Deciding how to vote at the second meeting

How you vote at the meeting on the three possible options, including any competing proposals for a deed of company arrangement, is a commercial decision based on your assessment of the company and its future prospects, and your personal circumstances. The information provided by the voluntary administrator, including opinions expressed, will assist you. However, you are not obliged to accept the administrator's recommendation.

If you do not consider that you have been given enough information to decide how to vote, and particularly whether to vote for any deed proposal, you can ask for a resolution to be put to creditors that the meeting be adjourned (up to a maximum of 45 business days in total) and for the administrator to provide more information. You must make this request before a vote on the company's future. This resolution must be passed for the adjournment to take place.

Creditors also have the right when a deed of company arrangement is proposed and considered at the meeting to negotiate specific requirements into the terms of the deed, including, for example, how the deed administrator is to report to them on the progress of the deed.

Any request to vary the deed proposal to include such requirements should be made before the deed proposal is voted on.

Minutes of meeting

The chairperson must prepare minutes of each meeting and a record of those who were present at each meeting.

The minutes must be lodged with ASIC within 14 days of the meeting. A copy may be obtained from any ASIC Business Centre on payment of the relevant fee.

Company returned to directors

If the company is returned to the directors, they will be responsible for ensuring that the company pays its outstanding debts as they fall due. It is only in very rare circumstances that creditors will resolve to return the company to the control of its directors.

Liquidation

If creditors resolve that the company go into liquidation, the voluntary administrator becomes the liquidator unless creditors vote at the second meeting to appoint a different liquidator of their choice. The liquidation proceeds as a creditors' voluntary liquidation with any payments of dividends to creditors made in the order set out in the *Corporations Act 2001* (Corporations Act). To find out more, see ASIC information sheet INFO 45 *Liquidation: a guide for creditors*.

Deed of company arrangement

If creditors vote for a proposal that the company enter a deed of company arrangement, the company must sign the deed within 15 business days of the creditors' meeting, unless the court allows a longer time. If this doesn't happen, the company will automatically go into liquidation, with the voluntary administrator becoming the liquidator.

The deed of company arrangement binds all unsecured creditors, even if they voted against the proposal. It also binds owners of property, those who lease property to the company and secured creditors, if they voted in favour of the deed. In certain circumstances, the court can also order that these people are bound by the deed even if they didn't vote for it. The deed of company arrangement does not prevent a creditor who holds a personal guarantee from the company's director or another person taking action under the personal guarantee to be repaid their debt.

Contents of the deed

Whatever the nature of the deed of company arrangement, it must contain certain information, including:

- the name of the deed administrator
- the property that will be used to pay creditors
- the debts covered by the deed and the extent to which those debts are released
- the order in which the available funds will be paid to creditors (the deed of company arrangement must ensure that employees have a priority in payment of outstanding employee entitlements unless the eligible employees agree by a majority in both number and value to vary this priority)
- the nature and duration of any suspension of rights against the company
- the conditions (if any) for the deed to come into operation
- the conditions (if any) for the deed to continue in operation, and
- the circumstances in which the deed terminates.

There are also certain terms that will be automatically included in the deed, unless the deed says they will not apply. These are called the 'prescribed provisions'. They include such matters as the powers of the deed administrator, termination of the deed and the appointment of a committee of creditors (called a 'committee of inspection').

The voluntary administrator's report should tell you which prescribed provisions are proposed to be excluded or varied, and, if varied, how.

Monitoring the deed

It is the role of the deed administrator to ensure the company (or others who have made commitments under the deed) carries through these commitments. The extent of the deed administrator's ongoing role will be set out in the deed.

Creditors can also play a role in monitoring the deed. If you are concerned that the obligations of the company (or others) under the deed are not being met, you should take this up promptly with the deed administrator. Matters that may give rise for concern include deadlines for payments or other actions promised under the deed being missed.

Creditors also have the right when a deed of company arrangement is proposed and considered at the second meeting to negotiate consequences of failure to meet such deadlines into the terms of the deed. Any request to vary the deed proposal to include such consequences should be made before the deed proposal is voted on.

The deed administrator must lodge a detailed list of receipts and payments with ASIC every six months.

Varying the deed

The deed administrator can call a creditors' meeting at any time to consider a proposed variation to the deed or a resolution to terminate the deed. The proposed resolutions must be set out in the notice of meeting sent to creditors.

Creditors owed at least 10% in value of all creditor claims can, by written request, also require the deed administrator to call such a meeting. However, it is unusual for this to happen, as those who make the request must pay the costs of calling and holding the meeting.

Payment of dividends under a deed

The order in which creditor claims are paid depends on the terms of the deed. Sometimes the deed proposal is for creditor claims to be paid in the same priority as in a liquidation. Other times, a different priority is proposed.

The deed must ensure employee entitlements are paid in priority to other unsecured creditors unless eligible employees have agreed to vary their priority.

Before you decide how to vote at the creditors' meeting, make sure you understand how the deed will affect the priority of payment of your debt or claim.

You may wish to seek independent legal advice if the deed proposes a different priority to that in a liquidation, or if creditors approve such a deed.

Establishing your claim under a deed

How debts or claims are dealt with under a deed of company arrangement depends on the deed's terms. Sometimes the deed incorporates the Corporations Act provisions for dealing with debts or claims in a liquidation.

Before any dividend is paid to you for your debt or claim, you will need to give the deed administrator sufficient information to prove your debt. You may be required to complete a claim form (this is called a 'proof of debt' in a liquidation). You should attach copies of any relevant invoices or other supporting documents to the claim form, as your debt or claim may be rejected if there is insufficient evidence to support it.

If a creditor is a company, the claim form should be signed by a person authorised by the company to do so.

When submitting a claim, you may ask the deed administrator to acknowledge receipt of your claim and advise if any further information is needed.

If the deed administrator rejects your claim after you have taken the above steps, first contact the deed administrator. You may also wish to seek your own legal advice. This should be done promptly. Depending on the terms of the deed, you may have a limited time in which to take legal action to challenge the decision.

If you have a query about the timing of the payment, discuss this with the deed administrator.

How a deed comes to an end

A deed may come to an end because the obligations under the deed have all been fulfilled and the creditors have been paid. Alternatively, the deed may set out certain conditions where the deed will automatically terminate.

The deed may also provide that the company will go into liquidation if the deed terminates due to these conditions being met.

Another way for the deed to end is if the deed administrator calls a meeting of creditors, and creditors vote to end the deed. This may occur because it appears unlikely that the terms of the deed can be fulfilled.

At the same time, creditors may be asked to vote to put the company into liquidation.

The deed may also be terminated if a creditor, the company, ASIC or any other interested person applies to the court and the court is satisfied that:

- creditors were provided false and misleading information on which the decision to accept the deed proposal was made
- the voluntary administrator's report left out information that was material to the decision to accept the deed proposal

- the deed cannot proceed without undue delay or injustice, or
- the deed is unfair or discriminatory to the interests of one or more creditors or against the interests of creditors as a whole.

If the court terminates the deed as a result of such an application, the company automatically goes into liquidation.

Approval of administrator's fees

Both a voluntary administrator and deed administrator are entitled to be paid for the work they perform. Generally, their fees will be paid from available assets, before any payments are made to creditors. They may have also arranged for a third party to pay any shortfall in their fees if there aren't enough assets.

The fees cannot be paid until the amount has been approved by a creditors' committee, creditors or the court. Creditors, the voluntary administrator/deed administrator or ASIC can ask the court to review the amount of fees approved.

If you are asked to approve fees, either at a meeting of a creditors' committee or in a general meeting of creditors, the voluntary administrator or deed administrator must give you, at the same time as the notice of the meeting, a report that contains sufficient information for you to assess whether the fees claimed are reasonable. This report should be in simple language and set out:

- a description of the major tasks performed
- the costs of completing these tasks, and
- such other information that will assist in assessing the reasonableness of the fees claimed.

For further information, see ASIC's information sheet INFO 85 *Approving fees: a guide for creditors*. If you are in any doubt about how the fees were calculated, ask for more information.

Apart from fees, the voluntary administrator and deed administrator are entitled to reimbursement for out-of-pocket expenses that have arisen in carrying out their administration. This reimbursement does not usually require approval.

Creditors' committee

A creditor's committee may be formed, following a vote of creditors, to consult with the voluntary administrator or deed administrator and receive reports on the conduct of their administration. A creditors' committee can also approve the administrator's fees.

In a voluntary administration, this committee is called a 'committee of creditors' and may be formed at the first creditors' meeting. While the company is under a deed of company arrangement, it is called a 'committee of inspection'.

All creditors, including a representative of the company's employees, are entitled to stand for committee membership to represent the interests of all creditors. However, to operate efficiently, the committee should not be too large.

If a creditor is a company, the creditor can nominate a director or employee to represent it on the committee.

Directors and voluntary administration

Directors cannot use their powers while the company is in voluntary administration. They must help the voluntary administrator, including providing the company's books and records, and a report about the company's business, property, affairs and financial circumstances, as well as any further information about these that the voluntary administrator reasonably requires.

If the company goes from voluntary administration into a deed of company arrangement, the directors' powers depend on the deed's terms. When the deed is completed, the directors regain full control, unless the deed provides for the company to go into liquidation on completion.

If the company goes from voluntary administration or a deed of company arrangement into liquidation, the directors cannot use their powers. If creditors resolve that the voluntary administration should end, control of the company goes back to the directors.

Queries and complaints

You should first raise any queries or complaints with the voluntary administrator or deed administrator. If this fails to resolve your concerns, including any concerns about their conduct, you can lodge a complaint with ASIC at www.asic.gov.au/complain, or write to:

ASIC Complaints
PO Box 9149
TRARALGON VIC 3844

ASIC will usually not become involved in matters of commercial judgement by a voluntary administrator or deed administrator. Complaints against companies and their officers can also be made to ASIC. For other enquiries, email ASIC through infoline@asic.gov.au, or call ASIC's Infoline on 1300 300 630 for the cost of a local call.

To find out more

For an explanation of terms used in this information sheet, see ASIC information sheet INFO 41 *Insolvency: a glossary of terms*. For more on external administration, see ASIC's related information sheets at www.asic.gov.au/insolvencyinfosheets:

- 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*

These are also available from the Insolvency Practitioners Association (IPA) website at www.ipaa.com.au. The IPA website also contains the IPA's Code of Professional Practice for Insolvency Professionals, which applies to IPA members.

G. Deed Proposal

**Binding proposal for a Deed of Company Arrangement
involving a Creditors' Trust**

**AnaeCo Limited (Administrators Appointed)
ACN 087 244 228**

Company	AnaeCo Limited (Administrators Appointed) ACN 087 244 228
Proponent	Benelong Capital Partners Pty Ltd or its nominee
Administrators/ Deed Administrators/ Trustees	Hayden Leigh White and Matthew David Woods
Purpose	The purpose of this term sheet is to articulate the material terms of the DOCA and Creditors Trust that the Proponent proposes in respect of the Company.
Defined terms:	
Creditors' Trust Deed	means the trust deed under which the Trustees will be obliged to hold the Trust Fund on trust for the <i>Admitted Claims</i> (being the Trust Creditors (as defined below)).
Commencement Date	Following approval by creditors at a meeting of creditors held in accordance with Section 439A of the Corporations Act 2001 (Cth) (Act), a DOCA will be executed which implements the terms of this Proposal. Completion of that DOCA in accordance with the Act will be conditional upon satisfaction of the conditions precedent (CPs) set out below
Claims	For the purposes of the DOCA, the term <i>Claim</i> will mean any action, demand, suit, proceeding, debt, claim, loss, damage or other liability (whether present or future, certain or contingent, ascertained or sounding only in damages) whatsoever and however incurred, arising directly or indirectly from any act or omission by the Company or by any agreement, circumstance or event, occurring on or before the Appointment Date, and includes claims from Priority Creditors, Secured Creditors, and Unsecured Creditors
Admitted Unsecured Claim	The term <i>Admitted Unsecured Claim</i> will mean any Claim by an unsecured creditor (as defined by the Corporations Act) against the Company that is admitted to proof by the Administrators in accordance with this deed or by the Trustee in accordance with the Creditors' Trust Deed.
Priority Creditor	means a Creditor with a Priority Creditor's Claim.
Priority Creditor's Claim	means a Claim against the Company as at the Appointment Date which, in a liquidation of the Company, would have been a Claim that was required to be paid in priority to all other unsecured debts or Claims in accordance with sections 556, 560 or 561 of the Act, with the winding up taken to have begun on the Appointment Date.
Secured Creditor	For the purposes of the DOCA, <i>Secured Creditor</i> means Monadelphous Group Limited
Security Interest	For the purposes of the DOCA, <i>Security Interest</i> means any interest held by a <i>Secured Creditor</i> as security for the payment of a monetary obligation or the performance of any other obligation, including: <ol style="list-style-type: none"> 1. a mortgage, charge, encumbrance, lien, pledge or hypothecation; and 2. a bill of sale, assignment, title retention arrangement, trust or power held as security.
Proposal	Benelong Capital Partners Pty Ltd or its nominee propose that the corporate structure of AnaeCo is restructured through a DOCA and subsequent recapitalisation as follows: <ol style="list-style-type: none"> 1. Following creditors approval pursuant to section 439A of the Corporations Act, a DOCA will be executed to implement the terms of this Proposal 2. Following satisfaction or waiver of the Conditions Precedent (refer below), the Deed Administrators will execute the Creditors Trust Deed, which will enable the

	<p>establishment of the Creditors Trust Fund comprising:</p> <ol style="list-style-type: none"> (a) Cash contribution by the Proponent of \$665,000; (b) Issue of new shares with a minimum value of \$320,000, comprising 1.85 million share at \$0.20 per share, or alternatively 18.5 million shares at \$0.02 per share; (c) Balance of any residual assets of AnaeCo under the control of the Deed Administrators;
Effect of DOCA	<p>The DOCA will:</p> <ol style="list-style-type: none"> 1. in accordance with (and subject to) section 444D of the Act, bind all Creditors of the Company in relation to all claims arising on the Appointment Date; and 2. in accordance with section 444G of the Act, bind the Administrators, the Company and the officers and members of the Company. <p>There will be a moratorium on all Claims for the duration of the DOCA.</p>
Administrators' Powers	<p>In addition to the powers provided for by the Prescribed Provisions, the Administrators will have such further powers as are customary for Administrators to have pursuant to a deed of company arrangement.</p>
Effect of DOCA on the Administrators	<p>The DOCA will provide:</p> <ol style="list-style-type: none"> 1. the Administrators, in so far as they exercise their powers, obligations, functions and duties in administering the DOCA, shall be the agents of the Company; 2. the Administrators shall be the joint and several deed administrators for the purposes of the DOCA; and 3. the Administrators shall, during the period from the Commencement Date to the Termination Date and for the purpose of administering the DOCA, have those powers articulated in clause 2 of Schedule 8A of the Corporations Regulations.
Board of Directors	<p>The board of Directors of the Company is to be nominated by the Proponent who will be appointed upon effectuation of the DOCA.</p> <p>AnaeCo shall be returned to the new board of Directors upon effectuation of the DOCA.</p>
Effect of DOCA on Secured Creditors	<p>The DOCA releases or extinguishes the Claim of the Secured Creditor and the debt secured by any Security Interest will not survive the effectuation of the DOCA.</p> <p>The claims of the Secured Creditor against the Company will be released and the Secured Creditors will no longer be a creditor of AnaeCo but will, instead, become a beneficiary of the Creditors' Trust.</p>
Effect of DOCA on Creditors	<p>The claims of creditors against the Company will be released and the creditors will no longer be creditors of AnaeCo but will, instead, become beneficiaries of the Creditors' Trust.</p>
Completion	<p>For the purposes of the DOCA, <i>Completion</i> will occur within 3 business days following satisfaction of the Conditions Precedent, following which a Creditors Trust Deed will be executed to hold the Creditors Trust Fund and distribute its proceeds as set out below.</p>
Conditions Precedent	<p>Completion will be conditional on the satisfaction of the following Conditions Precedent:</p> <ol style="list-style-type: none"> 1. Approval by AnaeCo's creditors in accordance with section 439A of the Corporations Act 2. Receipt of ASX approval and waivers (at a minimum price of \$0.02 per share), required for the reinstatement of AnaeCo on the ASX; 3. Receipt of AnaeCo's shareholder approval for the issue of new shares, and share consolidation as follows: <ol style="list-style-type: none"> (a) Consolidation of existing shareholders of 1:1350 (total 1,979,850 shares) (b) New issue of 1.85 million shares, or alternatively 18.5 million to the Creditors

	<p style="text-align: center;">Trust Fund with a minimum value of \$320,000 on re-quotation</p> <ol style="list-style-type: none"> 4. Removal of all PPSR security interests; 5. the Secured Creditor agreeing to be bound by the Proposal and agreeing to the assignment of outstanding Receivables, Intellectual Property and related Software, in satisfaction of the debts owed to it by AnaeCo, and the release of its registered security over AnaeCo 6. Remittance of the cash consideration of \$665,000 into the Creditors Trust Fund; 7. Issue of 1.85 million shares at a price of \$0.20 per share, or alternatively 18.5 million shares with a price of \$0.02 per share, into the Creditors Trust Fund, with a minimum re-quotation value of \$320,000 (or any other mechanism to top up the value to \$320,000 if not achieved) <p>If the CPs are not satisfied, or waived in writing by the Proponent to the agreement of the Administrators, by 30 June 2018 or such other date as agreed in writing between the Proponent and the Deed Administrators, the DOCA will be at an end and the Company may be placed into liquidation unless the Deed Administrators consider it appropriate to convene a further meeting of creditors pursuant to section 445F of the Act to consider a variation of the DOCA.</p>
Shareholder approval and costs:	<p>The Proponent must at its own expense (which it shall be entitled to be reimbursed by the Company) promptly prepare or procure the following documents or approvals:</p> <ol style="list-style-type: none"> 1. the DOCA for approval and execution; 2. shareholder meeting documents to give effect to the resolutions required to undertake the Proposal; 3. all ASX listing requirements, approvals and fees; 4. any ASIC or ASX lodgements or approvals; 5. if required, the completion of any outstanding financial reporting, audit and taxation requirements (or obtain an ASX waiver as appropriate);
Termination of DOCA	<ol style="list-style-type: none"> 1. The DOCA will continue in operation until it is terminated: <ol style="list-style-type: none"> (a) by an order of the Court under section 445D of the Act; or (b) by a resolution of the Creditors at a meeting convened under section 445F of the Act; or (c) by the happening of any event which is by the terms of the DOCA expressed to terminate the DOCA automatically without recourse to the Court or to a meeting of the Creditors. 2. If the Administrators determine that it is no longer practicable or desirable either to continue to implement the DOCA and it is not (in the Administrators' opinion) commercially justifiable to vary the DOCA to achieve a satisfactory outcome for Creditors, the Administrators: <ol style="list-style-type: none"> (a) may convene a meeting of Creditors for the purpose of passing a resolution under section 445C(b) of the Act; and (b) may forward to each Creditor not less than five (5) business days before the meeting an up-to-date report about the position of the Company accompanied by any financial statements as the Administrators think fit, together with a statement that they do not think it practicable or desirable to continue the DOCA, and that the DOCA will be terminated if the Creditors so resolve. 3. If Completion occurs pursuant to the DOCA, the Administrators must certify to that effect in writing as referred to above under the heading 'Completion'.
Variation	<p>The DOCA may only be varied by a resolution passed at a meeting of the Creditors convened in accordance with section 445F of the Act, but only if the variation is not materially different from a proposed variation set out in a notice of meeting.</p>

Establishment of the Creditors' Trust	<p>A creditors' trust will be established and named "AnaeCo Creditors' Trust" (Creditors' Trust).</p> <p>The purpose of the Creditors' Trust will be to enable certain tasks ordinarily undertaken by the Deed Administrators (including, but not limited to, the calling for and the adjudication of creditors' proofs of debt) to be performed by the Trustees of the Creditors' Trust in order to facilitate the termination of the DOCA.</p> <p>The property available to the creditors will comprise the "Trust Fund" as defined below</p>
Trust Fund	<p>The Fund will comprise:</p> <ol style="list-style-type: none"> 1) Cash held by Administrators/Deed Administrators (incl any future GST refunds, etc) 2) Cash contribution from the Proponent of \$665,000 3) Issue of 1.85 million shares at a price of \$0.20 per share, or alternatively 18.5 million shares with a price of \$0.02 per share, into the Creditors Trust Fund, with a minimum re-quotations value of \$320,000 (or any other mechanism to top up the value to \$320,000 if not achieved) 4) Any residual asset of AnaeCo, under the control of the Deed Administrators
Priority of payment pursuant to the Creditors' Trust	<p>The Creditors' Trust Deed will provide that the Trust Fund will be applied in the following order of priority:</p> <ol style="list-style-type: none"> 1. Any shortfall of the Administrators' remuneration, costs and expenses; 2. The Deed Administrators' remuneration, costs and expenses 3. Trustee's remuneration, costs and expenses; 4. the Priority Creditors, whose admitted Priority Creditor Claims must be paid in full; and 5. Admitted Unsecured Claims to receive a return of approximately \$0.05 (value capped at an amount of \$20,000) 6. finally, the balance payable to the Secured Creditor <p>The Creditors referred to above at paragraphs 4 and 6 are referred to be below as the 'Trust Creditors'.</p>
Discretion to make distributions	<p>The Trustees will have discretion to make interim distributions from the Trust Fund.</p>
Trustees' Powers	<p>In addition to the powers provided for by the Prescribed Provisions and the <i>Trustees Act 1962</i> (WA), the Trustees will each have such further powers as are customary for Trustees to have pursuant to a Creditors' Trust Deed.</p>
Trustees' Remuneration	<ol style="list-style-type: none"> 1. The Trustees will each be remunerated for their services as trustees of the respective Trusts at their usual hourly rates. 2. The Trustees may draw their approved costs, expenses and remuneration from the Trust Fund as the Trustees see fit. 3. The Trustees are entitled to be reimbursed from the Trust Fund for the whole of the approved costs, charges, disbursements and expenses incurred by the Trustees in connection with or incidental to their administration of the Trust. 4. The Trustees' remuneration is required to be approved by Creditors/beneficiaries pursuant to the Creditors' Trust Deed or by application to the Court pursuant to the <i>Trustees Act 1962</i> (WA) or any other relevant legislation.
Trustees' liabilities and indemnity	<ol style="list-style-type: none"> 1. To the maximum extent permitted by law, the Trustees shall not be personally liable for: <ol style="list-style-type: none"> (a) any debts incurred or any claims, demands, actions, loss, damage, costs, charges, expenses or liabilities caused by any act, omission or default by or on behalf of the Trustees in administering the Trust or exercising their duties and obligations under the Trust; (b) any debts incurred or any claims, demands, actions, loss, damage, costs, charges, expenses or liabilities caused by any act, omission or default by or



	<p>on behalf of the Company or the Trust; or</p> <p>(c) any debts incurred or any claims, demands, actions, loss, damage, costs, charges, expenses or liabilities suffered or sustained or incurred by any directors, officers or Creditors of the Company.</p> <p>2. To the maximum extent permitted by law, the Trustees are entitled to be indemnified out of the Trust Fund for:</p> <p>(a) their right to remuneration and reimbursement under the Trust and otherwise at law and in equity;</p> <p>(b) all actions, demands, suits, proceedings, debts, claims, losses, damages or other liabilities (whether present or future, certain or contingent, ascertained or sounding only in damages) arising out of, in connection with or incidental to any debts incurred by the Company, the Trust, the Trustees or the Trustees' partners or employees in the course of the administration of the Trust; and</p> <p>(c) all actions, demands, suits, proceedings, debts, claims, losses, damages or other liabilities (whether present or future, certain or contingent, ascertained or sounding only in damages) against the Trustees or the Trustees' partners or employees, arising out of, or in connection with or incidental to the Trustees' administration of the Trust.</p> <p>3. The Trustees are not entitled to an indemnity out of the Trust Fund against any claims arising out of any fraudulent or negligent act or omission by the Trustees or the Trustees' partners or employees.</p> <p>4. The indemnity shall not:</p> <p>(a) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the Trustees, and extends to all actions, suits, proceedings, accounts, liabilities, claims and demands arising in any way out of any defect in the appointment of the Trustees, the approval and execution of the Creditors' Trust Deed or otherwise; or</p> <p>(b) affect or prejudice any or all rights that the Trustees may have against the Company, the Trust Fund or any person to be indemnified against the costs, charges, expenses and liabilities incurred by the Trustees by or incidental to the exercise or performance of any of the powers or authorities conferred on the Trustees by the DOCA, the Trust or otherwise.</p> <p>5. The Trustees' right of indemnity conferred by the Creditors' Trust Deed has priority over the Claims of any Creditor or all Creditors generally (including, to the extent permitted by law, any Priority Creditor's Claims).</p> <p>6. The Trustees are entitled to exercise the Trustees' right of indemnity conferred by the Creditors' Trust Deed whether or not the Trustees have paid or satisfied the Admitted Claims of the Trust Creditors.</p> <p>7. The Trustees are entitled to exercise a lien on the Trust Fund to secure the Trustees' right of indemnity under the Creditors' Trust Deed and otherwise at law and in equity.</p>
Acknowledgement	The parties acknowledge that the terms set out in this term sheet are subject to the obligations the Administrators have to creditors under law and statute.
Governing law	This term sheet is governed by the laws of Western Australia.

Date: [] March 2018



Miles - Sole Director Sole Company Secretary

EXECUTED by
BENELONG CAPITAL PARTNERS PTY LTD
ACN 145 496 233

H. Remuneration Report



Remuneration Report

**AnaeCo Limited (Administrators Appointed)
ACN 087 244 228 ("the Company" or "AnaeCo")**

Hayden White and Matthew Woods
Joint and Several Administrators

3 April 2018



Contents

This remuneration approval report provides you with the information you need to be able to make an informed decision regarding the approval of our remuneration for undertaking the Voluntary Administration of AnaeCo Limited (Administrators Appointed) (“the Company” or “AnaeCo”).

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What do you need to do next?

You should read this report and the other documentation that we have sent you and then attend the upcoming meeting of creditors in order to voice your opinion by casting your vote on the resolutions put to the meeting. The meeting will also give you an opportunity to ask any questions that you may have.

Alternatively, you are also able to appoint a representative to attend on your behalf by lodging a proxy form. Lodging a specific proxy form allows you to specify how your proxy must vote. Lodging a general proxy form allows your representative to choose how your vote is exercised.

Information regarding the upcoming meeting of creditors is set out in our Report to Creditors dated 3 April 2018. If you will be attending the meeting of creditors or should you have any questions or need any assistance, please contact Luke Parker of our office at lparker1@kpmg.com.au or +61 8 9263 7376.



1 Declaration

We, Hayden White and Matthew Woods of KPMG have undertaken a proper assessment of the remuneration claims for our appointment as Administrators of AnaeCo Limited (Administrators Appointed) in accordance with the law and applicable professional standards. We are satisfied that the remuneration claimed is in respect of necessary work, properly performed, or to be properly performed, in the conduct of the Administration.

2 Executive Summary

Remuneration

The total remuneration for this appointment is estimated to be \$323,129.50 (excluding GST). Our initial fee estimate for the voluntary administration of AnaeCo for the period 18 December 2017 (appointment date) up until the second meeting of creditors was to be in the vicinity of \$200,000 plus GST and disbursements, as detailed in the Administrators’ Initial Remuneration Report attached to first report to creditors dated 19 December 2017. We note however, this estimate was provided on the assumption that there would be no extension to the convening period which was granted to the Administrators for an additional 10 weeks (refer to section 2.4 of our Report to Creditors dated 3 April 2018).

To date, no remuneration has been approved and paid in the Administration.

Set out in the table below is a summary of the remuneration we are seeking approval for at the upcoming meeting of creditors, noting that Resolution 3a is dependent on whether creditors resolve at the upcoming meeting to execute a Deed of Company Arrangement (“DOCA”) or for the Company to be wound up.

Remuneration summary		
Period	Report section	Amount \$ (ex GST)
Current remuneration claim:		
<i>Voluntary Administration</i>		
Resolution 1 (retrospective): 18 December 2017 to 23 March 2018	3.1	283,129.50
Resolution 2 (prospective): 24 March 2018 to execution of the DOCA or commencement of Liquidation	3.2	40,000.00
Total - Voluntary Administration		323,129.50
<i>Deed of Company Arrangement</i>		
Resolution 3a (prospective): DOCA execution to the end of the DOCA (if applicable)	3.3	35,000.00
Total - Deed of Company Arrangement		35,000.00
Total remuneration claim (VA and DOCA)		
358,129.50		
<i>Liquidation</i>		
Resolution 3b (prospective): Commencement to the end of the Liquidation (if applicable)	3.4	75,000.00
Total - Liquidation		75,000.00
Total remuneration claim (VA and Liquidation)		
398,129.50		

* Approval for the future remuneration sought is based on an estimate of the work necessary to the completion of the administration. Should additional work be necessary beyond what is contemplated, further approval may be sought from creditors.

Internal disbursements

The total internal disbursements currently claimed for this appointment is estimated to be \$8,078.24 (excluding GST).

To date, no internal disbursements have been approved and paid in the Administration.



Set out in the table below is a summary of the internal disbursements we are seeking approval for at the upcoming meeting of creditors:

Internal disbursements summary		
Period	Report Section	Amount \$ (ex GST)
Current internal disbursements claim:		
<i>Voluntary Administration</i>		
Resolution 4 (retrospective): 18 December 2017 to 23 March 2018	4.3	7,078.24
Resolution 5 (prospective): 24 March 2018 to execution of the DOCA or commencement of Liquidation	4.3	1,000.00
Total - Voluntary Administration		8,078.24
<i>Deed of Company Arrangement</i>		
Resolution 6a (prospective): DOCA execution to the end of the DOCA (if applicable)	4.3	875.00
Total - Deed of Company Arrangement		875.00
Total internal disbursements claim (VA and DOCA)		8,953.24
<i>Liquidation</i>		
Resolution 6b (prospective): Commencement to the end of the Liquidation (if applicable)	4.3	1,875.00
Total - Liquidation		1,875.00
Total internal disbursements claim (VA and Liquidation)		9,953.24

* Approval for the future internal disbursements sought is based on an estimate of the internal disbursements necessary to the completion of the external administration of the Company. Should additional disbursements be necessary beyond what is contemplated, further approval may be sought from creditors.

Please refer to report section references listed in the tables above for full details of the calculation and composition of the remuneration and internal disbursement approval claims being sought.

3 Remuneration

We will be seeking approval of the following resolutions at the upcoming meeting of creditors on Tuesday, 10 April 2018 to approve our remuneration. Details of this meeting and the matters to be considered are set out in my report dated 3 April 2018. Please contact Luke Parker of my office at lparker1@kpmg.com.au or +61 8 9263 7376.

We set out below the details to support our remuneration resolutions.

3.1 Resolution 1 (Voluntary Administrators’ retrospective fees)

We will be seeking approval of the following resolution to approve our remuneration

“That the remuneration of the Voluntary Administrators in respect of AnaeCo Limited, their partners and staff from 18 December 2017 to 23 March 2018 be approved in the amount of \$283,129.50 exclusive of GST and disbursements, calculated in accordance with the KPMG Restructuring Services guide to hourly rates as set out in the Administrators’ initial remuneration notice dated 19 December 2017 contained within the report to creditors dated 19 December 2017, and that such fees can be drawn for payment immediately or as required from the assets of the Company, or otherwise”.

The below table sets out the time charged to each major task area performed by the Voluntary Administrators and their staff members for the period 18 December 2017 to 23 March 2018, which is the basis of the Resolution 1 claim.

Set out in the subsequent table are detailed descriptions of the tasks performed within each task area, matching the amounts in the table below.



Table: Resolution 1 | Summary of hours by staff

Employee	Position	\$/hour (ex GST)	Total hours	Total (\$)	Task Area											
					Assets	Creditors	Employees	Trade On	Investigations	Administration						
			Hours	Amount (\$)	Hours	Amount (\$)	Hours	Amount (\$)	Hours	Amount (\$)	Hours	Amount (\$)				
Hayden White	Appointee/Partner	700.00	65.3	45,710.00	35.6	24,920.00	14.2	9,940.00	2.6	1,820.00	4.5	3,150.00	-	-	8.4	5,880.00
Matthew Woods	Appointee/Partner	700.00	3.7	2,590.00	2.7	1,890.00	0.5	350.00	-	-	-	-	0.2	140.00	0.3	210.00
Clint Joseph	Director	595.00	0.3	178.50	0.3	178.50	-	-	-	-	-	-	-	-	-	-
Paul Mayson	Director	595.00	2.5	1,487.50	2.5	1,487.50	-	-	-	-	-	-	-	-	-	-
Antonetta Carroll	Associate Director	525.00	117.8	61,845.00	28.4	14,910.00	58.4	30,660.00	3.7	1,942.50	10.5	5,512.50	6.0	3,150.00	10.8	5,670.00
Alex Godfrey	Manager	475.00	172.7	82,032.50	92.6	43,985.00	21.7	10,307.50	13.6	6,460.00	34.7	16,482.50	5.0	2,375.00	5.1	2,422.50
Luke Parker	Executive	350.00	186.5	65,275.00	20.7	7,245.00	48.0	16,800.00	4.4	1,540.00	44.1	15,435.00	12.7	4,445.00	56.6	19,810.00
Niany Ekladious	Executive	350.00	61.0	21,350.00	-	-	4.4	1,540.00	10.7	3,745.00	-	-	44.9	15,715.00	1.0	350.00
Nicholas Sayer	Executive	350.00	0.3	105.00	-	-	-	-	0.3	105.00	-	-	-	-	-	-
Kieran Witt	Analyst	275.00	6.8	1,870.00	-	-	-	-	-	-	-	-	-	-	6.8	1,870.00
Jaya Prasad	Vacationer	140.00	5.3	686.00	-	-	0.9	126.00	-	-	0.4	56.00	0.4	56.00	3.6	504.00
Total			622.2	283,129.50	182.8	94,616.00	148.1	69,723.50	35.3	15,612.50	94.2	40,580.00	69.2	25,881.00	92.6	36,716.50
GST				28,312.95		9,461.60		6,972.35		1,561.25		4,056.00		2,588.10		3,671.65
Total (incl GST)				311,442.45		104,077.60		76,695.85		17,173.75		44,636.00		28,469.10		40,388.15

Table: Resolution 1 | Description of work undertaken

Task area	General description	Includes, but not limited to:
Assets 182.8 hours \$94,616.00	Sale of business / company assets	Conducting an urgent assessment of the value of the Company's assets Request and collate information from Management and other parties Review and consider options for sale / recapitalisation of AnaeCo and its assets Commence an expressions of interest sale campaign for the sale / recapitalisation of AnaeCo and its assets Receipt, review and consider non-binding expression of interests received Maintenance of interested parties register Seeking proposals to restructure and recapitalise the Company Seeking proposals for the purchase of the Company's assets Preparing, circulating and recording receipt of confidentiality agreements with interested parties Internal meetings regarding expression of interests and confidentiality deeds received and status of sale campaign Internal meetings to discuss industry participants / potential interested parties Liaising with industry participants and interested parties Consider potential options and review position with interested parties Maintaining business operations while pursuing a restructure and recapitalisation of the Company Review and consider terms of DOCA Consider impact of DOCA on stakeholders Consider timing and preconditions to DOCA Selection of two preferred interested party proposals Assist with due diligence requests from preferred bidders Liaison with MND regarding preferred offers presented to Administrators Detailed discussions/liaison with preferred bidders to finalise binding offers
	Other Assets	Liaising with management regarding company equipment and intellectual property Review and consider AnaeCo's Patent Portfolio Conduct site visits to inspect and secure assets Review asset listings and confirm completeness Conduct asset searches including but not limited to vehicle searches Liaison with valuers, auctioneers and interested parties regarding asset values Engage Wrays Lawyers to assist with Patent expiration extension applications Consider valuer submissions for valuation of company assets Liaise with interested parties regarding offers to purchase Company assets Conduct bank account searches Correspondence with CBA to recover cash balances Transfer and collection of pre-appointment bank account balances Liaise with insurers regarding the return of pre-appointment premiums paid
	Assets subject to specific charges	Search and review the PPSR register for registrations against company assets Notify PMSI creditors identified from the PPSR register Maintain register of PMSI registrations including discharged registrations
	Debtors	Reviewing and assessing AnaeCo's debtor ledger Assess recoverability of outstanding pre-appointment debtor (XEPT) Issue correspondence to debtor for immediate payment and on-going liaison with XEPT regarding realisation of debtor sum
	Leasing	Review and consider lease options Liaise with landlord of the Company's trading premise regarding current lease obligations, rent-free period entitled to Voluntary Administrators and negotiating lease agreements Liaison with lessor of property to vacate premises Issue notice disclaiming premises

Task area	General description	Includes, but not limited to:
Creditors 148.1 hours \$69,723.50	Creditor enquiries	Receive and respond to creditor enquiries Maintaining file notes on creditor enquiries received Review and prepare responses to creditor enquiries received
	Secured creditor reporting	Issue correspondence to Monadelphous Group Limited as a PPSR registration holder, and appointee Liaise with Monadelphous Group Limited regarding voluntary administration updates Respond to queries received from Monadelphous Group Limited
	Creditor reports	Preparing Voluntary Administrators' initial report to creditors dated 19 December 2017 Issue Voluntary Administrator's first report to all known creditors Draft, finalise and lodge statutory items required for Voluntary Administrator's initial report to creditors Preparation of draft structure and content for Voluntary Administrator's second report to creditors Preparation of draft structure and content for remuneration report to Voluntary Administrator's second report to creditors Draft statutory items required for Voluntary Administrator's second report to creditors Draft and review of structure and content of Voluntary Administrator's second report to creditors Preparation of tables and supporting documentation for Voluntary Administrator's second report to creditors Liaise with management regarding information and documentation requests for investigation purposes Commence and progress investigations into the Company's affairs
	Dealing with proofs of debt	Receipting and filing POD and supporting invoices when not related to a dividend Corresponding with OSR and ATO regarding POD when not related to a dividend Upload details of creditor PODs into insolvency software program Request further information from creditors where required
	Meeting of creditors	Preparation of meeting notices, proxies and advertisements for first meeting of creditors Preparation of meeting file, including agenda, certificate of postage, attendance register, list of creditors, advertisement of meeting and draft minutes of meeting for Voluntary Administrators' initial report to creditors Hold first meeting of creditors Preparation and lodgement of minutes of first meeting of creditors with ASIC Responding to stakeholder queries and questions prior to and following the first meeting of creditors
	Shareholders	Maintain shareholder enquiry register Prepare and issue responses to shareholder calls and correspondence received
Employees 35.3 hours \$15,612.50	Employees enquiries	Review and prepare initial employee circular and issue via email and post Prepare for staff briefing in respect of the Company's status and continuation of employment Discussions held with employees regarding the Company's status and continuation of employment Receive and respond to employee enquiries regarding employee entitlements and other matters Maintain employee enquiry register Review and prepare employee termination letters to employees and issue by hand
	Employee entitlements	Review of employee contracts and employee-related company books and records Review of employee entitlement policies Review post-appointment pay run calculations and processing of post-appointment employee pay runs Review of employee timesheets and processing of payroll

Task area	General description	Includes, but not limited to:
Trade On 94.2 hours \$40,580.00	Trade On Management	Liaising with suppliers regarding appointment and requirement for new account set-ups Liaising with management and staff Attendance on site Attend to trading issues and assess working capital requirements Authorising purchase orders Maintaining purchase order register Reconcile invoices to purchase orders and process payment requirements Preparing and authorising payment vouchers Preparing and sending payment remittance advices Arrange for offsite access to server information Liaise with Vizstone regarding securing server information Liaise with suppliers regarding cancellation of services Prepare final payments to close out supplier accounts Liaise with suppliers to cancel all services and close Administration accounts Entering receipts and payments into insolvency accounting system
	Processing receipts and payments	Entering receipts and payments into accounting system Update insolvency accounting software with receipts and payments
	Budgeting and financial reporting	Reviewing the Company’s budgets, forecasts and financial statements Meetings with Management to discuss AnaeCo’s trading position Maintain, reconcile and update cash flow forecast Review and update calculations of forecast expenditure Reconcile purchase order register with cash flow forecast Reconcile shut down expenditure with cash flow forecast
Investigations 69.2 hours \$25,881.00	Review of company records and electronic files	Request and review of further financial information and documentation Review board minutes Conduct imaging of company electronic files and email server Review Director questionnaire received from the former Managing Director
	Conducting investigation	Liaise with former directors, officers, stakeholders and staff regarding the financial affairs of the Company Collection and review of company books and records Review and preparation of company nature and history Conducting and summarising statutory searches Preparation of comparative financial statements Preparation of deficiency statement and estimated security position Undertake investigations of the financial affairs of the Company and the circumstances leading up to the appointment of the Voluntary Administrators Preparation investigations workbook and file Finalise investigations for Voluntary Administrators’ second report to creditors, including preliminary solvency analysis and review
Administration 92.6 hours \$36,716.50	Document maintenance / file review / Planning	Weekly meetings regarding status and progress of administration Periodic administration and file reviews Filing of documents Maintain and update task and administration checklists
	Insurance	Obtain listing of pre-appointment insurance policies and brokers from management Liaise with Arthur J Gallagher regarding pre-appointment insurance policies, brokers and information requirements Correspondence with Arthur J Gallagher regarding initial and ongoing insurance requirements Consider potential issues requiring attention of insurance specialists
	Bank account administration	Preparing correspondence to open administration account Bank account reconciliations
	ATO and other statutory forms	Prepare and issue notification of appointment documentation Preparing statutory forms and lodging with ASIC Preparation and lodgement of DIRRI
	Books and records / storage	Collation of Company books and records Arranging for the collection and storage of Company books and records



3.2 Resolution 2 (Voluntary Administrators’ prospective fees)

We will be seeking approval of the following resolution to approve our remuneration

“That the future remuneration of the Voluntary Administrators in respect of AnaeCo Limited, their partners and staff from 24 March 2018 to the date of the winding up or the execution of the DOCA, be approved up to a capped amount of \$40,000.00 exclusive of GST and disbursements, calculated in accordance with the KPMG Restructuring Services guide to hourly rates as set out in the Administrators’ initial remuneration notice dated 19 December 2017 contained within the report to creditors dated 19 December 2017, and that such fees can be drawn for payment immediately or as required from the assets of the Company, or otherwise”.

The below table sets out the time charged to each major task area performed by the Voluntary Administrators and their staff members for the period from 24 March 2018 to the date of the winding up or the execution of the DOCA, which forms the basis of the Resolution 2 claim.

Set out in the subsequent table are detailed descriptions of the tasks performed within each task area, matching the amounts in the table below.

Table: Resolution 2 | Summary of hours by staff

Resolution 2 - Future summary by hours		
Task area	Hours	Amount (\$)
Assets	45.0	20,000.00
Creditors	25.0	10,000.00
Trade on	5.0	2,000.00
Employees	5.0	2,000.00
Administration	15.0	6,000.00
Total estimated remuneration claim (excl GST)	95.0	40,000.00

Table: Resolution 2 | Description of work to be undertaken

Task area	General description	Includes, but not limited to:
Assets 45.0 hours \$20,000.00	Sale of business / company assets	Respond to queries relating to DOCA Liaise with DOCA proponents and financial and legal advisers to DOCA proponents regarding DOCA Liaise with legal representatives of Voluntary Administrators in relation to the DOCA proposal Liaise with ASIC and ASX regarding seeking of waivers in respect of DOCA proposal
	Other Assets	Consider offers on individual assets Liaise with interested parties Finalise sale agreements for plant and equipment
	Debtors	Continue liaising with pre-appointment debtor (XEPT) regarding collection and payment
Creditors 25.0 hours \$10,000.00	Creditor enquiries	Receive and respond to creditor enquiries Maintaining file notes on creditor enquiries received Review and prepare responses to creditor enquiries received Compiling information requested by creditors Considering reasonableness of creditor requests Obtaining legal advice on requests Documenting reasons for complying or not complying with requests or directions Compiling information requested by creditors
	Secured creditor reporting	Discuss attendance at Voluntary Administrators second meeting of creditors Liaise with Monadelphous Group Limited regarding administration updates, and DOCA terms to release security Respond to queries received from Monadelphous Group Limited
	Creditor reports	Finalise structure and content for Voluntary Administrator's second report to creditors Review and finalise report tables and supporting documentation for second report to creditors Finalise remuneration report for Voluntary Administrator's second report to creditors Finalise and lodge statutory items for Voluntary Administrator's second report to creditors Review, finalise and issue Voluntary Administrator's second report to creditors by email and post
	Dealing with proofs of debt	Receipting and filing POD and supporting invoices when not related to a dividend Upload details of creditor PODs into insolvency software program Request further information from creditors where required
	Meeting of creditors	Finalise meeting notices, proxies and advertisements for second meeting of creditors Forward notice of second creditors meeting to all known creditors Finalise preparation meeting file, including agenda, certificate of postage, attendance register, list of creditors, second report to creditors, advertisement of meeting and minutes of meeting Hold second meeting of creditors Preparation and lodgement of minutes of second meeting of creditors with ASIC Responding to stakeholder queries and questions prior to and following the first meeting of creditors
	Stakeholders	Maintain shareholder enquiry register Prepare and issue responses to shareholder enquiries received Review and consider shareholder transfer requests Liaise with ASX regarding listing conditions and requirements Liaise with Computershare as and when required
Trade On 5.0 hours \$2,000.00	Trading tasks	Close all outstanding purchase orders Prepare final payments to close out supplier accounts Liaise with remaining suppliers to cancel close Administration accounts



Task area	General description	Includes, but not limited to:
Employees 5.0 hours \$2,000.00	Employee enquiries	Prepare final employee termination letter Maintain employee enquiry register Receive and follow up employee enquiries via telephone and email Receive and respond to employee enquiries regarding employee entitlements and other matters
Administration 15.0 hours \$6,000.00	Document maintenance / file review / planning	Periodic administration reviews Filing of documents File reviews Maintain and update task checklists Maintain and update administration checklists
	Insurance	Review ongoing/change in insurance requirements (where applicable) and update Arthur J Gallagher accordingly Liaise Arthur J Gallagher regarding the refund of pre-appointment workers compensation insurance
	Bank account administration	Bank account reconciliations Preparing receipt and payment vouchers
	ATO and other statutory forms	Preparing statutory forms and lodging with ASIC Preparing BAS forms



3.3 Resolution 3a (Deed Administrators’ prospective fees)

We will be seeking approval of the following resolution to approve our remuneration, should creditors resolve to execute a DOCA at the second meeting of creditors:

“That the future remuneration of the Deed Administrators in respect of AnaeCo Limited, their partners and staff from execution of the DOCA to completion of the DOCA, be approved up to a maximum amount of \$35,000.00 plus GST and disbursements, calculated in accordance with the KPMG guide to hourly rates as set out in the Administrators’ initial advice to creditors dated 19 December 2017 contained within the report to creditors dated 19 December 2017 and that such fees can be drawn for payment immediately or as required from the assets of the Company, or otherwise.”

The below table sets out our estimate of time expected to be charged to each major task area to be performed by the Deed Administrators and their staff members from DOCA execution to completion of the DOCA (if creditors resolve to execute the DOCA), which forms the basis for the Resolution 3a claim.

Set out in the subsequent table below are detailed descriptions of the tasks performed within each task area, matching the amounts in the table below.

Table: Resolution 3a | Summary of hours by staff

Resolution 3a - Future summary by hours		
Task area	Hours	Amount (\$)
Assets	65.0	22,000.00
Creditors	15.0	4,500.00
Employees	5.0	2,000.00
Administration	20.0	6,500.00
Total estimated remuneration claim (excl GST)	105.0	35,000.00

Table: Resolution 3a | Description of work to be undertaken

Task area	General description	Includes, but not limited to:
Assets 65.0 hours \$22,000.00	Terms of DOCA	Receipt and reconciliation of cash to be received in DOCA Attendance to statutory requirements of the DOCA terms, including liaison with ASIC and the ASX Review, action and monitor terms under DOCA attend to other asset and intellectual property matters required pursuant to DOCA
Creditors 15.0 hours \$4,500.00	Creditor enquiries	Receive and respond to creditor enquiries regarding DOCA process Receipt of POD Maintain POD register Maintaining file notes on creditor enquiries received Request further information from creditors as required Compiling information requested by creditors
	Secured creditor reporting	Liaise with Monadelphous Group Limited and provide updates on progress of DOCA Preparing reports to Monadelphous Group Limited Responding to queries received from Monadelphous Group Limited
	Creditor reports	Prepare and issue circular to creditors Prepare updates on progress of DOCA
	Stakeholders	Continue to liaise with shareholders Provide updates to shareholders on progress of DOCA Liaise with Computershare as and when required
Employees 5.0 hours \$2,000.00	Employee enquiries	Continue to liaise with employees Provide updates to employees on progress of DOCA
Administration 20.0 hours \$6,500.00	ASIC reporting and general	Preparing and lodging ASIC statutory forms including statutory forms for finalisation of previous engagement and commencement of DOCA engagement Attend to ASX and other administrative requirements Liaising with statutory parties regarding DOCA Review change in insurance requirements and provide update to Arthur J Gallagher accordingly Ongoing bank account reconciliations Preparing BAS forms as required
	Document maintenance / file review / planning	Weekly meetings regarding status and progress of administration Periodic administration and file reviews Filing of documents Maintain and update task checklists Maintain and update DOCA checklists
	Books and records / storage	Dealing with records in storage



3.4 Resolution 3b (Liquidators’ prospective fees)

We will be seeking approval of the following resolution to approve our remuneration, should creditors resolve to wind up the Company at the second meeting of creditors:

“That the future remuneration of the Liquidators in respect of AnaeCo Limited, their partners and staff from commencement to the end of the Liquidation, be approved up to a capped amount of \$75,000.00 exclusive of GST and disbursements, calculated in accordance with the KPMG Restructuring Services guide to hourly rates as set out in the Administrators’ initial remuneration notice dated 19 December 2017 contained within the report to creditors dated 19 December 2017, and that such fees can be drawn for payment immediately or as required from the assets of the Company, or otherwise”.

The below table sets out our estimate of time expected to be charged to each major task area to be performed by the Liquidators and their staff members from the commencement to the completion of the Liquidation (if creditors resolve for the Company to be wound up), which forms the basis of the Resolution 3b claim.

Set out in the subsequent table below are detailed descriptions of the tasks performed within each task area, matching the amounts in the table below.

Table: Resolution 3b | Summary of hours by staff

Resolution 4 - Future summary by hours		
Task area	Hours	Amount (\$)
Assets	30.0	10,000.00
Creditors	55.0	20,000.00
Employees	55.0	20,000.00
Investigations	45.0	15,000.00
Administration	30.0	10,000.00
Total estimated remuneration claim (excl GST)	215.0	75,000.00

Table: Resolution 3b | Description of work to be undertaken

Task area	General description	Includes, but not limited to:
Assets 30.0 hours \$10,000.00	Sale of business / company assets	Develop strategies to realise remaining assets including the Company's plant and equipment, intellectual property and business Maintain insurance on assets until realised Account for proceeds received from assets realisations Receipt and reconciliation of cash to be received in liquidation
Creditors 55.0 hours \$20,000.00	Creditor enquiries	Receive and respond to creditor enquiries via email and telephone Maintaining creditor request and enquiry register Maintaining register of creditor details Review and prepare correspondence to creditors Documenting correspondence with creditors Compiling information requested by creditors
	Secured creditor reporting	Liaise with Monadelphous Group Limited regarding liquidation process Respond to queries received from Monadelphous Group Limited Prepare and update estimated distribution based on asset realisations / sale of business Attend to PPSR matters as necessary
	Creditor reports	Preparing Statutory Report by Liquidator Prepare estimated outcome statement for classes of creditors Request formal proof of debts Issue report to creditors on liquidation Consider holding meeting of creditors
	Dealing with proofs of debt	Request and adjudicate on formal proof of debts Receiving and filing formal proof of debts Maintaining POD register Preparation of correspondence to creditors regarding their claim
Employees 55.0 hours \$20,000.00	Employees enquiries	Receive and follow up employee enquiries via telephone Issue correspondence to employees regarding liquidation appointment Prepare and review correspondence to employees regarding their claim in the liquidation Review strategy with employees Calculate and confirm entitlements Preparation and review of letters to employees advising of their entitlements Correspondence with FEG as required Ongoing liaison with FEG as and when required
Investigations 45.0 hours \$15,000.00	Conducting investigation	Conduct additional investigations Investigate likelihood of insolvent trading claim and other potential voidable transactions Determine ability to recover funds for the benefit of creditors
Administration 30.0 hours \$10,000.00	Document maintenance / file review / Planning	Periodic administration reviews Filing of documents Maintain and update task checklists Maintain and update liquidation checklists
	Insurance	Review changes in insurance requirements and update Arthur J Gallagher accordingly
	Bank account administration	Bank account reconciliations Preparation of receipt and payment vouchers
	ATO, ASIC and other statutory forms	Notification of appointment in the capacity of Liquidators Preparing and lodging ASIC statutory forms and notices Preparing BAS' Completing group certificates Liaising with ATO regarding request for documents and other matters as necessary
	Finalisation	Notifying ATO of finalisation Cancelling ABN / GST / PAYG registration Completing checklists Finalising WIP



3.5 Total remuneration reconciliation

Total remuneration reconciliation

As set out in the Executive Summary section of this report, the total remuneration for this appointment is estimated to be \$323,129.50 at this point in time, and is subject to the decision of creditor’s at the upcoming meeting of creditors with respect to the future of Company.

The Initial Remuneration Notice contained within the first report to creditors dated 19 December 2017 estimated remuneration until the second meeting of creditors, without an extension to the convening period, to be in the vicinity of \$200,000 plus GST and disbursements.

Actual remuneration incurred from 18 December 2017 to 23 March 2018 totalled \$283,129.50, excluding GST and disbursements. This amount differs to the estimate of costs provided in the Initial Remuneration Notice dated 19 December 2017, which estimated a cost of the administration for the following reasons:

- Protracted sale of business campaign having regard to the time of our appointment which led into the Christmas/ New Year shut down period;
- As a result of the above, the convening period was extended to 7 March 2018 and again to 4 April 2018, to allow for negotiations to progress with the selected bidders and a DOCA to be put forward to creditors;
- As there was no interest received in the ongoing operations of the Company, the Administrators proceeded to wind down the Company’s operations including the termination of all employees and vacating the trading premises in Bentley, WA.

As previously advised, we have provided an explanation of tasks remaining to be completed, including our estimated costs to complete those tasks, to support our current remuneration approval requests, at section 3.2 of this report.

To date, no remuneration has been approved and paid in the Administration.

Future remuneration requests

In preparing this remuneration approval report, we have made our best estimate at what we believe the external administration will cost to complete in under both a DOCA and Liquidation scenario. Resolution 3 for the approval of our future remuneration is dependent upon whether creditors resolve at the upcoming meeting to execute a DOCA or for the Company to be wound up.

At this time, we do not anticipate that we will have to ask creditors to approve any further remuneration. However, should the external administration not proceed as expected, we will advise creditors and may seek approval of further remuneration and provide details on why the remuneration has changed.

3.6 Likely impact on dividends

The Corporations Act sets the order for payment of claims against the Company and it provides for remuneration to be paid in priority to other claims. This ensures that when there are sufficient funds, External Administrators receive payment for the work done to recover assets, investigate the Company’s affairs, report to creditors and ASIC and distribute any available funds.

Any dividend to creditors in a liquidation scenario is subject to secured creditor claims and will also be impacted by the amount of unsecured creditor claims that are admitted to participate in any dividend, including any claims by priority creditors such as employees.

Please refer to section 9 of our Report to Creditors dated 3 April 2018 for our estimated distribution to creditors of the Company under both a DOCA and Liquidation scenario, which takes into account the applicable remuneration resolutions being sought in this remuneration report.

4 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** - these are recovered at cost. Examples of externally provided non-professional costs are travel, accommodation and search fees.
- **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. The recovery of these costs must be on a reasonable commercial basis. Details of the basis of recovery of each of these costs is discussed below.

We, Hayden White and Matthew Woods of KPMG have undertaken a proper assessment of disbursements claimed for AnaeCo, in accordance with the law and applicable professional standards. We are satisfied that the disbursements claimed are necessary and proper.

We will be seeking creditor approval to pay our internal disbursements from creditors.

4.1 Basis of disbursements

Disbursements incurred in the Administration will be charged on the following basis:

Disbursement type	Rate (excl GST)
Externally provided professional services	At Cost
Externally provided non-professional services	At Cost
Internal disbursements	
<i>KPMG’s Technology & Administration Charge (TAC) charge</i>	
An amount equivalent to 2.5% of the remuneration drawn (paid) under the external administration to cover all internal disbursements such as (but not limited to) telecommunications, equipment, stationary, printing, postage	2.5% total fees drawn (paid) in the external administration

Please refer to section 4.3 of this report for the approval being sought from creditors for retrospective and prospective internal disbursement claims at the upcoming meeting of creditors at the above rate, including the capped amount for prospective claims.

4.2 Details of internal disbursement claims

The internal disbursements being claimed for the voluntary administration of AnaeCo relate to KPMG’s Technology & Administration Charge (TAC), being an amount equivalent to 2.5% of the remuneration drawn (paid) under the external administration to cover all internal disbursements including (but not limited to) telecommunications, equipment, stationery, printing and postage.

Approval for the following internal disbursements being claimed by my firm for the external administration of the Company is being sought at the upcoming meeting of creditors:

Table: Internal disbursements for approval

Internal disbursements summary		
Period	Report Section	Amount \$ (ex GST)
Current internal disbursements claim:		
<i>Voluntary Administration</i>		
Resolution 4 (retrospective): 18 December 2017 to 23 March 2018	4.3	7,078.24
Resolution 5 (prospective): 24 March 2018 to execution of the DOCA or commencement of Liquidation	4.3	1,000.00
Total - Voluntary Administration		8,078.24
<i>Deed of Company Arrangement</i>		
Resolution 6a (prospective): DOCA execution to the end of the DOCA (if applicable)	4.3	875.00
Total - Deed of Company Arrangement		875.00
<i>Liquidation</i>		
Resolution 6b (prospective): Commencement to the end of the Liquidation (if applicable)	4.3	1,875.00
Total - Liquidation		1,875.00

4.3 Internal disbursement resolutions

At the upcoming meeting of creditors on 10 April 2018, we will be seeking approval for the following resolutions for internal disbursements being claimed by my firm, noting that Resolution 6 is dependent upon whether creditors resolve at the upcoming meeting to execute a DOCA or for the Company to be wound up.

The retrospective and prospective basis of calculating the internal disbursement claims are summarised in section 4.1 of this remuneration report.

- **Resolution 4 (Voluntary Administrators’ retrospective internal disbursements): 18 December 2017 to 23 March 2018**

“That the internal disbursements claimed by KPMG in the matter of AnaeCo Limited from 18 December 2017 to 23 March 2018 be approved in the amount of \$7,078.24 exclusive of GST, calculated in accordance with the specified rate for internal disbursements as set out in the Administrators’ initial remuneration notice dated 19 December 2017 contained within the report to creditors dated 19 December 2017, and that such internal disbursements can be drawn for payment immediately or as required from the assets of the Company, or otherwise”.

- **Resolution 5 (Voluntary Administrators’ prospective internal disbursements): 24 March 2018 to date of the Second Meeting**

“That the future internal disbursements claimed by KPMG in the matter of AnaeCo Limited from 24 March 2018 to the date of the winding up or the execution of the DOCA, be approved up to a capped amount of \$1,000.00 exclusive of GST, calculated in accordance with the specified rate for internal disbursements as set out in the Administrators’ initial remuneration notice dated 19 December 2017 contained within the report to creditors dated 19 December 2017, and that such internal disbursements can be drawn for payment immediately or as required from the assets of the Company, or otherwise”.

- **Resolution 6a (Deed Administrators’ prospective internal disbursements): Execution of the DOCA to completion of the DOCA (if applicable)**

“That the future internal disbursements claimed by KPMG in the matter of AnaeCo Limited from the execution of the DOCA to the completion of the DOCA, be approved up to a capped amount of \$875.00 exclusive of GST, calculated in accordance with the specified rate for internal disbursements as set out in the Administrators’ initial remuneration notice dated 19 December 2017 contained within the report to creditors dated 19 December 2017, and that such internal disbursements can be drawn for payment immediately or as required from the assets of the Company, or otherwise”.

- **Resolution 6b (Liquidators’ prospective internal disbursements): Commencement to the end of the Liquidation (if applicable)**

“That the future internal disbursements claimed by KPMG in the matter of AnaeCo Limited from the commencement to the end of the Liquidation, be approved up to a capped amount of \$1,875.00 exclusive of GST, calculated in accordance with the specified rate for internal disbursements as set out in the Administrators’ initial remuneration notice dated 19 December 2017 contained within the report to creditors dated 19 December 2017, and that such internal disbursements can be drawn for payment immediately or as required from the assets of the Company, or otherwise”.

Externally provided non-professional disbursements

We set out below a summary of the externally provided non-professional disbursements during the period 18 December 2017 to 26 March 2018 which have not yet been paid, but do not require creditor approval:

Externally provided non-professional disbursements	
Disbursements claimed	Total (\$) (excl GST)
Travel costs	215.08
Statutory fees	4.55
Search fees	38.04
Postage costs	41.95
IT equipment	88.18
Total externally provided non-professional disbursements	387.80

5 Report on Progress of the Administration

Please refer to our Report to Creditors dated 3 April 2018 for details regarding the conduct and progress of the external administration.

6 Summary of Receipts and Payments

Please refer to our Report to Creditors dated 3 April 2018 for our summary of receipts and payments for the period 18 December 2017 to 26 March 2018.

7 Queries

For further information please refer to the report to creditors dated 3 April 2018. If you have any queries in relation to the information in this report, please contact Luke Parker of my staff on (08) 9263 7376 or lparker1@kpmg.com.au.

You can also access information which may assist you on the following websites:

- ARITA at www.arita.com.au/creditors
- ASIC at www.asic.gov.au (search for “insolvency information sheets”).

I. Approving Fees: A Guide for Creditors



ASIC

Australian Securities & Investments Commission

INFORMATION SHEET 85

Approving fees: a guide for creditors

If a company is in financial difficulty, it can be put under the control of an independent external administrator.

This information sheet gives general information for creditors on the approval of an external administrator's fees in a liquidation of an insolvent company, voluntary administration or deed of company arrangement (other forms of external administration are not discussed in this information sheet). It outlines the rights that creditors have in the approval process.

Entitlement to fees and costs

A liquidator, voluntary administrator or deed administrator (i.e. an 'external administrator') is entitled to be:

- paid reasonable *fees*, or remuneration, for the work they perform, once these fees have been approved by a creditors' committee, creditors or a court, and
- reimbursed for out-of-pocket *costs* incurred in performing their role (these costs do not need creditors' committee, creditor or court approval).

External administrators are only entitled to an amount of fees that is reasonable for the work that they and their staff properly perform in the external administration. What is reasonable will depend on the type of external administration and the issues that need to be resolved. Some are straightforward, while others are more complex.

External administrators must undertake some tasks that may not directly benefit creditors. These include reporting potential breaches of the law and lodging a detailed listing of receipts and payments with ASIC every six months. The external administrator is entitled to be paid for completing these statutory tasks.

For more on the tasks involved, see ASIC's information sheets INFO 45 *Liquidation: a guide for creditors* and INFO 74 *Voluntary administration: a guide for creditors*.

Out-of-pocket costs that are commonly reimbursed include:

Important note: This information sheet contains 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. This document 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.

- legal fees
- valuer’s, real estate agent’s and auctioneer’s fees
- stationery, photocopying, telephone and postage costs
- retrieval costs for recovering the company’s computer records, and
- storage costs for the company’s books and records.

Creditors have a direct interest in the level of fees and costs, as the external administrator will, generally, be paid from the company’s available assets before any payments to creditors. If there are not enough assets, the external administrator may have arranged for a third party to pay any shortfall. As a creditor, you should receive details of such an arrangement. If there are not enough assets to pay the fees and costs, and there is no third party payment arrangement, any shortfall is not paid.

Who may approve fees

Who may approve fees depends on the type of external administration: see Table 1. The external administrator must provide sufficient information to enable the relevant decision-making body to assess whether the fees are reasonable.

Table 1: Who may approve fees

	Creditors’ committee	Creditors	Court
Administrator in a voluntary administration	✓ ¹	✓	✓
Administrator of a deed of company arrangement	✓ ¹	✓	✓
Creditors’ voluntary liquidator	✓ ¹	✓ ⁵	✗ ³
Court-appointed liquidator	✓ ¹	✓ ^{4, 5}	✓ ²

¹ If there is one.

² If there is no approval by the committee or the creditors.

³ Unless an application is made for a fee review.

⁴ If there is no creditors’ committee or the committee fails to approve the fees.

⁵ If insufficient creditors turn up to the meeting called by the liquidator to approve fees, the liquidator is entitled to be paid up to a maximum of \$5000, or more if specified in the Corporations Regulations 2001.

Creditors’ committee approval

If there is a creditors’ committee, members are chosen by a vote of creditors as a whole. In approving the fees, the members represent the interests of all the creditors, not just their own individual interests.

There is not a creditors’ committee in every external administration. A creditors’ committee makes its decision by a majority in number of its members present at a meeting, but it can only act if a majority of its members attend.

To find out more about creditors’ committees and how they are formed, see ASIC’s information sheets INFO 45 *Liquidation: a guide for creditors*, INFO 74 *Voluntary administration: a guide for creditors* and INFO 41 *Insolvency: a glossary of terms*.

Creditors’ approval

Creditors approve fees by passing a resolution at a creditors’ meeting. Unless creditors call for a poll, the resolution is passed if a simple majority of creditors present and voting, in person or by proxy,

indicate that they agree to the resolution. Unlike where acting as committee members, creditors may vote according to their individual interests.

If a poll is taken, rather than a vote being decided on the voices or by a show of hands, a majority in *number* and *value* of creditors present and voting must agree. A poll requires the votes of each creditor to be recorded.

A separate resolution of creditors is required for approving fees for an administrator in a voluntary administration and an administrator of a deed of company arrangement, even if the administrator is the same person in both administrations.

A proxy is where a creditor appoints someone else to represent them at a creditors' meeting and to vote on their behalf. A proxy can be either a *general* proxy or a *special* proxy. A general proxy allows the person holding the proxy to vote as they wish on a resolution, while a special proxy directs the proxy holder to vote in a particular way.

A creditor will sometimes appoint the external administrator as a proxy to vote on the creditor's behalf. An external administrator, their partners or staff must not use a general proxy to vote on approval of their fees; they must hold a special proxy in order to do this. They must vote all special proxies as directed, even those against approval of their fees.

Calculation of fees

Fees may be calculated using one of a number of different methods, such as:

- on the basis of *time spent* by the external administrator and their staff
- a quoted *fixed fee*, based on an upfront estimate, or
- a percentage of asset realisations.

Charging on a time basis is the most common method. External administrators have a scale of hourly rates, with different rates for each category of staff working on the external administration, including the external administrator.

If the external administrator intends to charge on a time basis, you should receive a copy of these hourly rates soon after their appointment and before you are asked to approve the fees.

The external administrator and their staff will record the time taken for the various tasks involved, and a record will be kept of the nature of the work performed.

It is important to note that the hourly rates do not represent an hourly wage for the external administrator and their staff. The external administrator is running a business—an insolvency practice—and the hourly rates will be based on the cost of running the business, including overheads such as rent for business premises, utilities, wages and superannuation for staff who are not charged out at an hourly rate (such as personal assistants), information technology support, office equipment and supplies, insurances, taxes, and a profit.

External administrators are professionals who are required to have qualifications and experience, be independent and maintain up-to-date skills. Many of the costs of running an insolvency practice are fixed costs that must be paid, even if there are insufficient assets available to pay the external administrator for their services. External administrators compete for work and their rates should reflect this.

These are all matters that committee members or creditors should be aware of when considering the fees presented. However, regardless of these matters, creditors have a right to question the external administrator about the fees and whether the rates are negotiable.

It is up to the external administrator to justify why the method chosen for calculating fees is an appropriate method for the particular external administration. As a creditor, you also have a right to question the external administrator about the calculation method used and how the calculation was made.

Report on proposed fees

When seeking approval of fees, the external administrator must send committee members/creditors a report with the notice of meeting setting out:

- information that will enable the committee members/creditors to make an informed assessment of whether the proposed fees are reasonable
- a summary description of the major tasks performed, or to be performed, and
- the costs associated with each of these tasks.

Committee members/creditors may be asked to approve fees for work already performed or based on an estimate of work yet to be carried out.

If the work is yet to be carried out, it is advisable to set a maximum limit ('cap') on the amount that the external administrator may receive. For example, future fees calculated according to time spent may be approved on the basis of the number of hours worked at the rates charged (as set out in the provided rate scale) up to a cap of \$X. If the work involved then exceeds this figure, the external administrator will have to ask the creditors' committee/creditors to approve a further amount of fees, after accounting for the fees already incurred.

Deciding if fees are reasonable

If asked to approve an amount of fees either as a committee member or by resolution at a creditors' meeting, your task is to decide if that amount of fees is reasonable, given the work carried out in the external administration and the results of that work.

You may find the following information from the external administrator useful in deciding if the fees claimed are reasonable:

- the method used to calculate fees
- the major tasks that have been performed, or are likely to be performed, for the fees
- the fees/estimated fees (as applicable) for each of the major tasks
- the size and complexity (or otherwise) of the external administration
- the amount of fees (if any) that have previously been approved
- if the fees are calculated, in whole or in part, on a time basis:
 - the period over which the work was, or is likely to be performed
 - if the fees are for work that has already been carried out, the time spent by each level of staff on each of the major tasks
 - if the fees are for work that is yet to be carried out, whether the fees are capped.

If you need more information about fees than is provided in the external administrator's report, you should let them know before the meeting at which fees will be voted on.

What can you do if you think the fees are not reasonable?

If you do not think the fees being claimed are reasonable, you should raise your concerns with the external administrator. It is your decision whether to vote in favour of, or against, a resolution to approve fees.

Generally, if fees are approved by a creditors' committee/creditors and you wish to challenge this decision, you may apply to the court and ask the court to review the fees. Special rules apply to court liquidations.

You may wish to seek your own legal advice if you are considering applying for a court review of the fees.

Reimbursement of out-of-pocket costs

An external administrator should be very careful incurring costs that must be paid from the external administration—as careful as if they were dealing with their own money. Their report on fees should also include information on the out-of-pocket costs of the external administration.

If you have questions about any of these costs, you should ask the external administrator and, if necessary, bring it up at a creditors' committee/creditors' meeting. If you are still concerned, you have the right to ask the court to review the costs.

Queries and complaints

You should first raise any queries or complaints with the external administrator. If this fails to resolve your concerns, including any concerns about their conduct, you can lodge a complaint with ASIC at www.asic.gov.au/complain, or write to:

ASIC Complaints
PO Box 9149
TRARALGON VIC 3844

ASIC will usually not become involved in matters of commercial judgement by an external administrator. Complaints against companies and their officers can also be made to ASIC. For other enquiries, email ASIC through infoline@asic.gov.au, or call ASIC's Infoline on 1300 300 630 for the cost of a local call.

To find out more

For an explanation of terms used in this information sheet, see ASIC's information sheet INFO 41 *Insolvency: a glossary of terms*. For more on external administration, see ASIC's related information sheets at www.asic.gov.au/insolvencyinfosheets:

- 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*

These are also available from the Insolvency Practitioners Association (IPA) website at www.ipaa.com.au. The IPA website also contains the IPA's Code of Professional Practice for Insolvency Professionals, which applies to IPA members.