

CIRCULAR TO CREDITORS AND SUPPLIERS

11 May 2016

Dear Sir / Madam

Oakville Produce Group of Companies
Twelve entities listed in Annexure A
(All Receivers and Managers Appointed) (All Administrators Appointed)
(the Companies or Oakville Produce Group)

A. Background

David Lombe, Tim Heenan and I were appointed Joint and Several Receivers and Managers (**Receivers**) of the Companies on 11 May 2016 by CBA Corporate Services (NSW) Pty Limited (**the Financiers**), pursuant to the provisions contained in a Security Agreement giving rise to a security interest registered on the Personal Property Securities Register (**PPSR**) in favour of the Financiers.

As a consequence of the appointment of Receivers, we have taken control of the business and operations of the Companies. We are continuing to trade the business of the Companies on a business as usual basis whilst we undertake an urgent assessment of the financial position of the Companies and undertake a sale of the business process, seeking offers for a sale as a going concern.

Please read the information below carefully regarding future trading with the Oakville Produce Group.

B. Ongoing supply to the Companies

The sale of the business in a timely manner is the best opportunity to preserve the business and allow it to continue in the future. Your continued support of the business is appreciated during this period.

Liability will not be accepted by the Receivers in respect of any goods or services provided which are not agreed or approved with the authority of specified authorised signatories of my team. A list of the authorised signatories and their specimen signatures is attached to this letter (**Annexure B**).

Please open a new account for the relevant purchasing company styled with the company name followed by (Receivers and Managers Appointed). A list of the entities is attached at Annexure A. Please charge future authorised orders to these accounts, which will be paid in accordance with usual terms of credit.

C. PPSR and Retention of Title Claims

Please advise Laura Lombe on (02) 9322 3115 or by email at llombe@deloitte.com.au if you have supplied any goods or collateral in respect of which you have a security interest registered on the PPSR pursuant to the *Personal Property Securities Act 2009*.

If there are any outstanding or uncompleted orders placed by the Companies prior to our appointment, please contact Duncan Scott of this office on 0401 908 710 or by email at oakvillegroup@deloitte.com.au, to obtain written instructions concerning your order.

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Member of Deloitte Touche Tohmatsu Limited

D. Outstanding payments and claims

Any outstanding amounts due to you at the date of my appointment will form a claim against the Companies.

Barry Kogan, Jason Preston and Theodora Eszenyi were appointed Joint and Several Administrators of the Companies on 11 May 2016 pursuant to Section 436A of the *Corporations Act 2001* (the Act). Whilst the Receivers have control of the Companies and their ongoing trading activities, the effect of the appointment of the Voluntary Administrators appointment is to place a moratorium on the payment of amounts due to unsecured creditors for debts incurred up to the date of their appointment.

Accordingly, the Voluntary Administrators will be in contact with you directly regarding your outstanding claims. They have asked for any queries regarding this matter be directed to Jack Freeman on (02) 9248 9989 or by email at jfreeman@mcgrathnicol.com.

E. Freight carriers

If you are holding any freight or are in the process of providing services please make urgent contact with Matthew Carter on 0439 499 543 or by email at matcarter@deloitte.com.au so that we may provide you with an appropriately authorised purchase order to cover the services. A listing of the specified authorised signatories of my team is attached as **Annexure B**.

Should we continue to use your services, before doing so we require confirmation from you that you will not attempt to claim a lien on any goods which come into your possession subsequent to our appointment against charges due to you by any of the Companies for services rendered by you prior to appointment.

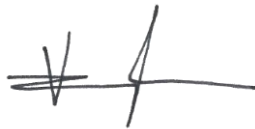
F. Ongoing communication and contact details

We understand this is a very difficult and uncertain time for all suppliers and creditors. Your continued support is important during the Receivership whilst we seek a sale of the business as a going concern.

Enclosed at **Annexure C** is an information sheet published by the Australian Securities and Investment Commission which will provide further explanation of the receivership process. The Receivers provide regular updates across various communication channels. Should you have any questions please see the contact details below as well as www.deloitte.com/au/oakvilleproducegroup.

If you have any concerns please do not hesitate to email us at oakvillegroup@deloitte.com.au or contact Duncan Scott on 0401 908 710.

Yours faithfully



Vaughan Strawbridge
Joint and Several Receiver and Manager

Encl.

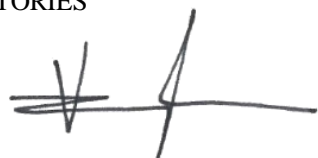
**OAKVILLE PRODUCE GROUP OF COMPANIES
(ALL RECEIVERS AND MANAGERS APPOINTED)
(ALL ADMINISTRATORS APPOINTED)**

Company	ACN
King Holding Company 1 Pty Ltd	162 529 384
King Holding Company 2 Pty Ltd	162 530 761
King Bid Company Pty Ltd	162 530 930
Oakville Produce Group Pty Ltd (formerly Moraitis Group Pty Ltd)	119 179 216
Oakville Produce Asian Holdco Pty Ltd (formerly Moraitis Asian Holdco Pty Ltd)	162 955 857
Oakville Produce Australian Holdco Pty Ltd (formerly Moraitis Australian Holdco Pty Ltd)	162 558 714
Oakville Produce Pty Ltd (formerly Moraitis Pty Ltd)	119 180 004
Oakville Produce Qld Pty Ltd (formerly Moraitis Fresh Pty Ltd)	071 791 369
Lachlan Produce Pty Ltd	113 179 883
OP Holdco SA Pty Ltd (formerly Moraitis Golden Sunrise Pty Ltd)	127 656 400
Golden Sunrise Produce Pty Ltd	126 506 303
Oakville Potatoes Pty Ltd	080 208 671


**OAKVILLE PRODUCE GROUP OF COMPANIES
(ALL RECEIVERS AND MANAGERS APPOINTED)
(ALL ADMINISTRATORS APPOINTED)**

AUTHORISED SIGNATORIES

NAME: VAUGHAN STRAWBRIDGE

SIGNATURE:  _____

NAME: TIM HEENAN

SIGNATURE:  _____

NAME: DAVID LOMBE

SIGNATURE:  _____


NAME: KATHRYN EVANS

SIGNATURE:  _____

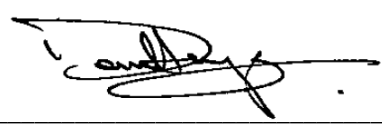
NAME: JACKIE WHITE

SIGNATURE:  _____

NAME: MATTHEW CARTER

SIGNATURE:  _____

NAME: DOMINIC HAYSON (LIMIT \$500)

SIGNATURE:  _____



ASIC

Australian Securities & Investments Commission

INFORMATION SHEET 54

Receivership: a guide for creditors

If a company is in financial difficulty, a secured creditor or the court may put the company into receivership.

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

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. Charges over many types of assets are required to be registered with ASIC. You can find out if a company has a registered charge from ASIC's Companies Register and obtain a copy of the registered charge, on payment of the relevant fee.
- 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. In a receivership, in certain circumstances, some of their outstanding entitlements are paid in priority to the debt of the secured creditor. If you are an employee, see ASIC's information sheet INFO 55 *Receivership: a guide for employees*.

The purpose of receivership

A company goes into receivership when an independent and suitably qualified person (the receiver) is appointed by a secured creditor, or in special circumstances by the court, to take control of some or all of the company's assets. (Court receiverships are not covered in this information sheet.)

The charge, or security, held by the secured creditor under which the appointment of a receiver is made may comprise:

- a fixed charge over particular assets of the company (e.g. land, plant and equipment), and/or

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.

- a floating charge over assets that are used and disposed of in the course of normal trading operations (e.g. debtors, cash and stock).

The powers of the receiver are set out in the charge document and the *Corporations Act 2001* (Corporations Act).

If a receiver has, under the terms of their appointment, the power to manage the company's affairs, they are known as a receiver and manager.

It is possible for a company in receivership to also be in provisional liquidation, liquidation, voluntary administration or subject to a deed of company arrangement.

The receiver's role

The receiver's role is to:

- collect and sell enough of the charged assets to repay the debt owed to the secured creditor (this may include selling assets or the company's business)
- pay out the money collected in the order required by law, and
- report to ASIC any possible offences or other irregular matters they come across.

The receiver's primary duty is to the company's secured creditor. The main duty owed to unsecured creditors is an obligation to take reasonable care to sell charged property for not less than its market value or, if there is no market value, the best price reasonably obtainable. A receiver also has the same general duties as a company director.

The receiver has no obligation to report to unsecured creditors about the receivership, either by calling a meeting or in writing. However, the receiver will usually write to all of the company's suppliers to inform them of their appointment. Unsecured creditors are not entitled to see the receiver's reports to the secured creditor.

A detailed list of the receiver's receipts and payments for the receivership must be lodged with ASIC every six months. Copies of these detailed lists of receipts and payments may be obtained from any ASIC Business Centre, on payment of the relevant fee.

Distribution of money

The most common way a receiver will obtain money from the assets they are appointed over is to sell them. In the case of a company's business, the receiver may continue to trade the business until they sell it as a going concern.

The money from the realisation of assets must be distributed as follows:

- money from the sale of fixed charge assets is paid to the secured creditor after the costs and fees of the receiver in collecting this money have been paid, and
- money from the sale of floating charge assets is paid out as follows: first, the receiver's costs and fees in collecting this money; second, certain priority claims, including employee entitlements (if the liability for these hasn't been transferred to a new owner); and, third, repayment of the secured creditor's debt.

In both cases, any funds left over are paid to the company or its other external administrator, if one has been appointed.

If the receiver is appointed under a security comprising both fixed and floating charges, which is common, there will be costs and fees of the receivership that cannot be directly allocated to realising the fixed or floating charge assets. These costs are allocated in proportion to the fixed and floating realisation amounts.

If employee entitlements are to be paid by the receiver under a floating charge, the payments must be made in the following order:

1. outstanding wages and superannuation
2. outstanding leave of absence (including annual leave, sick leave—where applicable—and long service leave), and
3. retrenchment pay.

Each class of entitlement is paid in full before the next class is paid. If there are insufficient funds to pay a class in full, the available funds are paid on a pro rata basis (and the next class or classes will be paid nothing).

The receiver has no obligation to pay any other unsecured creditors for outstanding pre-appointment debts.

Purchases of goods and services by receiver

Any debts that arise from the receiver authorising the purchase of goods or services during the receivership are paid from asset realisations as costs of the receivership. If there are insufficient funds available from asset realisations to pay these costs, the receiver is personally liable.

To have the benefit of this protection, you should ensure you receive a purchase order authorised in the manner advised by the receiver.

If the receiver continues to use, occupy or hold property owned by another party that is in the company's possession or occupied by the company, they are personally liable for any rent or amounts payable arising after seven days from the beginning of the receivership. The receiver can avoid this liability by informing the other party within seven days from their appointment that they don't intend to use the property.

Pre-existing contracts

The appointment of a receiver does not automatically terminate pre-receivership contracts with the company. If you have such a contract, you may wish to seek legal advice, as the law in this area is complex. It is possible for the contract to remain current without the receiver having personal liability for the company's obligations under the contract.

Receiver's fees

The receiver is generally entitled to be paid their fees from the money realised from the charged assets. How the fees are calculated is usually set out in the charge document and appointment document. Unsecured creditors have no role in setting or approving the receiver's fees.

ASIC, a liquidator, voluntary administrator or deed administrator of the company may apply to the court for the receiver's remuneration to be reviewed.

Other implications for unsecured creditors

Legal action may be commenced or continued against the company despite the appointment of a receiver. This means that an unsecured creditor can apply to the court to have the company put into liquidation on the basis of an unpaid debt. Reasons you might wish to do this, particularly if the company owes you a large amount, include:

- an expectation that there will be money or property left over after realisation of the charged assets and payments by the receiver
- possible recoveries that may be available to a liquidator for the benefit of unsecured creditors, which are not available to a receiver
- a desire for a liquidator to investigate potential offences by those associated with the company, or
- the ability of the liquidator to review the validity of the appointment of the receiver and of the charge, and to monitor the progress of the receivership.

Surplus property

If there are any assets or money left over when the receivership is complete, they will be returned to the company (and therefore the control of the company's directors) unless a liquidator or another external administrator is appointed.

If a liquidator is appointed, they must carry out the liquidation for the benefit of all unsecured creditors. For more on liquidation, see ASIC's information sheet INFO 45 *Liquidation: a guide for creditors*.

Recoveries available to a liquidator

Recoveries that may be available to a liquidator for the benefit of unsecured creditors, and which are not available to a receiver, include:

- recovery of payments (unfair preferences) made by the company to individual creditors in the six months prior to liquidation that put those creditors in a more favourable position than other unsecured creditors
- recoveries from setting aside uncommercial transactions entered into by the company, and
- compensation from directors for amounts lost by creditors as a result of the company trading while insolvent.

Investigation by liquidator

Although a receiver must report to ASIC on any possible offences or irregularities they come across, they don't have a specific duty to investigate and report on the affairs of the company generally.

A liquidator will usually carry out a more detailed investigation on behalf of all unsecured creditors. This investigation into the company's affairs looks into reasons for the failure of the company, what assets may be recoverable for the benefit of unsecured creditors, as well as possible offences.

The liquidator must lodge a report with ASIC if they believe that offences may have been committed or that the company may be unable to pay ordinary unsecured creditors a dividend of more than 50 cents in the dollar. ASIC may take action based on these reports. This includes, in certain circumstances, action to ban a person as a director if that person has been a director of two or more companies that have gone into liquidation. Similar grounds for banning a person as a director do not apply to directors of companies that have only gone into receivership.

Review of receivership

If a liquidator is appointed over a company in receivership, they will review the validity of the charge and of the appointment of the receiver.

A liquidator is usually also better placed than individual unsecured creditors to monitor the progress of the receivership and report back to all unsecured creditors.

Directors and receivership

Receivership does not affect the legal existence of the company. The directors continue to hold office, but their powers depend on the powers of the receiver and the extent of the assets over which the receiver is appointed.

Control of the charged property, which often includes the company's business, is taken away from the directors.

Directors must provide the receiver with a report about the company's affairs and must allow the receiver access to books and records relating to the charged property.

Conclusion of receivership

A receivership usually ends when the receiver has collected and sold all of the assets or enough assets to repay the secured creditor, completed all their receivership duties and paid their receivership liabilities. Generally, the receiver resigns or is discharged by the secured creditor. Unless another external administrator has been appointed, full control of the company and any remaining assets goes back to the directors.

Queries and complaints

You should first raise any queries or complaints with the receiver. If this fails to resolve your concerns, including any concerns about the receiver's 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 receiver. 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

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 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.