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18 October 2024

To Creditors and Suppliers

Dear Sir/Madam

Bibere Australian Beverages Pty Ltd trading as Fox Creek Wines (ACN 644 054 320)
Crescere Australian Vineyards Pty Ltd (ACN 654 310 666)
Opportuna Investments Pty Ltd (ACN 662 805 950)
(All Administrators Appointed)
(Collectively referred to as “the Companies”)

David Kidman and I were appointed Joint and Several Voluntary Administrators (**Administrators**) of the Companies on Friday, 18 October 2024 pursuant to Section 436A of the Corporations Act 2001 (**the Act**).

The Administrators have just commenced the administration process where they now control the assets, trading and day-to-day operations of the Companies, with the priority being to undertake an immediate assessment of the business and its operations to assess options and notify stakeholders of the appointment.

The Administrators intention is to continue to trade the Companies while an urgent assessment of the Companies and their operations are undertaken and restructure options assessed.

The purpose of this letter is to provide you with information about the administration of the Companies and your rights as a creditor in the following sections.

- 1 First meeting of creditors
- 2 Declaration by the Administrators
- 3 Information for suppliers and trade creditors - trading arrangements
- 4 Legal proceedings
- 5 Employees
- 6 Report to creditors and second meeting of creditors
- 7 Creditor rights
- 8 Administrators' remuneration
- 9 Electronic notification
- 10 Further information

Annexures enclosed within this letter are described in the table below:

Annexure	Document	Description
A	Notice of first meeting of creditors (Form 529A)	Refer to section 1 of this letter
B	Short Guide to the Creditors' Portal	Refer to section 1 of this letter
C	Declaration of independence, relevant relationships and indemnities	Refer to section 2 of this letter
D	Short guide to the Personal Property Securities Act	Refer to section 3.2 of this letter
E	Information sheet - creditor rights in voluntary administration	Refer to section 7 of this letter
F	Initial remuneration notice	Refer to section 8 of this letter
G	Forms to be completed	Refer to section 1 of this letter

1 First meeting of creditors

We are required to call a first meeting of creditors to be held within eight business days of our appointment pursuant to Section 436E of the Act. The purpose of this first meeting is to provide creditors with an opportunity to:

- Appoint a Committee of Inspection (**COI**); and
- Appoint an alternative Administrator, if they so desire.

The notice of meeting is enclosed as **Annexure A**. Details of the meeting are as follows:

Date: Wednesday, 30 October 2024
Time: 3:00pm (ACDT), registration from 2:30pm (ACDT)
Location: Virtual meeting held via Microsoft Teams

We are using the Creditors' Portal to manage creditor claims and allow creditors to vote on resolutions put forward at the meeting of creditors. All creditors are required to register and submit a formal proof of debt form electronically via the Creditors' Portal at the following link <https://creditors.accountants/>. Creditors can find further guidance on how to register, submit and manage a claim at **Annexure B**.

Creditors wishing to vote at the meeting, must complete a formal proof of debt form electronically by registering a claim on the Creditors' Portal and complete a proxy form (**Annexure G1**) no later than **4:00pm (ACDT) on Tuesday, 29 October 2024**. A completed proxy form can be emailed to us at sjain41@kpmg.com.au.

A person is not entitled to vote at the meeting unless they lodge particulars of the debt or claim via the Creditors' Portal before the meeting. All creditors must upload to the Creditors' Portal full details of their claims, indicating whether they rank as secured, preferential or unsecured, and whether they claim title to any goods supplied to the Companies or any lien over goods in their possession which are the property of the Companies.

For your information, a COI is a small working group of creditors appointed to assist the Administrators. Section 80-55 of Schedule 2 to the Act imposes certain limitations on the ability of members of a COI to trade with the Companies and/or purchase assets. Those creditors wishing to nominate a member for appointment to a COI (if one is appointed) must complete the enclosed Nomination Form – COI (**Annexure G2**) and return it to this office no later than **4:00pm (ACDT) on Tuesday, 29 October 2024** by email to us at sjain41@kpmg.com.au.

2 Declaration by the Administrators

Pursuant to Sections 436DA(2) and (3) of the Act and the Australian Restructuring Insolvency & Turnaround Association (**ARITA**) Code of Professional Practice (**the Code**), we attach our 'Declaration of Independence, Relevant Relationships and Indemnities' (**DIRRI**) as **Annexure C**.

3 Information for suppliers and trade creditors - trading arrangements

At this stage, the Administrators' intention is to continue to trade the Companies and we draw your attention to the following information.




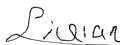
3.1 Trading accounts

The Act provides that the Administrators are personally liable for liabilities arising from services rendered, goods bought or property hired, leased, used or occupied during the administration.

- Please close your trading accounts with the Companies in respect of goods supplied and / or services

rendered up to the date of appointment.

- Please open a new trading account in the name of the relevant entity with the suffix "(Administrators Appointed)" for the supply of authorised goods and services to the Administrators during the voluntary administration period.
- From Friday, 18 October 2024, liability will only be accepted by the Administrators in respect of the purchase of goods or services authorised by the Administrators or their representatives, whose specimen signatures are set out below. Accounts will be paid in accordance with your usual terms of credit.

Authoriser name	Authorisation limit	Signature
Tim Mablesen	No limit	
David Kidman	No limit	
George Choimes	\$5,000	
Maggie Li	\$5,000	

- If there are any outstanding or unfulfilled orders placed by the Companies prior to our appointment, including those under which there are goods in transit, please email sjain41@kpmg.com.au to obtain written confirmation that the order should proceed.

You may be aware that payment of unsecured creditors' accounts as at the date of appointment, is postponed pending the outcome of a second meeting of creditors (see section 6 below).

3.2 Consignment stock, goods subject to purchase money security interests and liens / pledges

If you supplied consignment stock to the Companies, or believe you provided stock subject to a purchase money security interest (formerly a retention of title clause), or claim a lien / pledge over any of the Companies' assets, please email us at sjain41@kpmg.com.au as a matter of urgency. See further information at **Annexure D**.

3.3 Contracts / agreements

The Administrators expressly refrain from personally adopting any of the Companies' contracts existing at the time of their appointment. All contracts are currently under review. The Administrators will advise the status of contracts as soon as practicable.

3.4 Property used but not owned by the Companies

In accordance with Section 443B of the Act, the Administrators' liability under hire purchase or lease agreements does not commence until seven days after the Administrators' appointment. Further, pursuant to Section 440B of the Act, the lessor or owner of property in the Companies' control is not entitled to take possession of such property without leave of the Court or the Administrators' written consent.

We will write separately to known lease and hire purchase creditors regarding such assets. Please contact us at sjain41@kpmg.com.au if you do not receive our letter.

4 Legal proceedings

The appointment of Administrators stays a proceeding in a Court against the Companies. You cannot commence or continue a proceeding against the Companies without our written consent or the leave of the Court.

5 Employees

We will correspond separately with employees regarding their ongoing employment.

6 Report to creditors and second meeting of creditors

The Administrators will prepare a report to creditors under Section 438A of the Act and Insolvency Practice Rules (Corporations) 2016 (**IPR**) 75-225 which will include details on the Companies' business, property, affairs and financial circumstances.

The second creditors' meeting is held at the end of the administration process for creditors to decide the Companies' future. The default time period is 25 business days.

The Administrators may submit an application to the Court seeking an extension of the convening period for the second meeting of creditors of the Companies. Such an application will be determined over the first 1 to 2 weeks of the administration. Creditors will be advised should an application to Court to extend the convening period be filed.

A report to creditors pursuant to Section 75-225(3) of Insolvency Practice Rules (Corporations) and a notice of meeting will be sent to all known creditors and employees of the Companies at least five (5) business days prior to the second meeting of creditors, whenever that is held.

7 Creditor rights

Enclosed at **Annexure E** is an information sheet setting out your rights as a creditor in the administration of the Companies, including:

- Making reasonable requests for a meeting or information.
- Giving directions to the Administrator.
- Appointing a reviewing Liquidator or replacing the Administrator.

8 Administrators' remuneration

For the purposes of the Companies' administration, the Administrators' remuneration will be fixed on the basis of time spent by the Administrators and the Administrators' staff of an appropriate level having regard to the nature and complexity of the work, and calculated by reference to hourly rates.

Enclosed at **Annexure F** for your information is the Administrators' Initial Remuneration Notice which sets out the four basic methods of calculating remuneration together with an explanation as to why the time based (hourly rates) method is appropriate in this administration.

An information sheet concerning approval of remuneration in external administrations can be obtained from ASIC at www.asic.gov.au.

Because the Administrators have just commenced the administration process and are conducting an urgent review of the business and its operations to assess options, it is extremely difficult to provide a precise estimate of the Administrators remuneration for the entire voluntary administration. Based on our experience conducting voluntary administrations for companies of this size, we currently estimate fees for the administration of the Companies' affairs to the second meeting of creditors (assuming that meeting is held based on the default convening period of 25 business days, with no extension of the timing) of at least \$150,000 (excluding GST and disbursements).

It should be noted that if, during the course of the administration, any unanticipated issues arise or the scope of tasks and duties of the Administrators changes which increases the time required by the Administrators to complete their process, including if an application to Court to extend the convening period is granted, it will be necessary to revisit the fee estimate and creditors will be advised accordingly. Ultimately creditors approve the Administrators remuneration (ie the Administrators cannot draw their remuneration without creditor approval).

9 Electronic notification

You may elect to receive future notices or other documents, including circulars and reports regarding the administration, via email. Once you have registered as a user on the Creditors' Portal, you will be prompted to verify your identity and tick the box under the electronic communication heading should you elect to receive future correspondence regarding the administration via email. Alternatively, please email sjain41@kpmg.com.au with the following information:

- The person to whom matters regarding the administration should be directed.
- The full name of the creditor entity.
- The email address at which the creditor is to receive future correspondence.

10 Further information

For further information concerning the Voluntary Administration process and KPMG, you may wish to visit our website at www.kpmg.com.au. In addition, you can access general information about external administrations and insolvency from ARITA's website at www.arita.com.au.

Questions regarding the administration should be emailed to us at sjain41@kpmg.com.au

Yours faithfully



TD Mablesen
Joint & Several Voluntary Administrator

Encl.

Annexure A

Notice of first meeting of creditors of Companies under administration

Insolvency Practice Rules (Corporations) 2016, Section 75-15

Bibere Australian Beverages Pty Ltd trading as Fox Creek Wines (ACN 644 054 320)
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(All Administrators Appointed)
(Collectively referred to as “the Companies”)

1. Notice is given that on Friday, 18 October 2024, the Companies, under Section 436A, appointed Timothy David MABLESON and David William KIDMAN of KPMG, 151 Pirie Street, ADELAIDE SA 5000 as the joint and several Voluntary Administrators of the Companies.
2. Notice also is given that a meeting of the creditors of the Companies will be held virtually at 3:00pm (ACDT) on Wednesday, 30 October 2024 via Microsoft Teams.
3. The purpose of the meeting is to determine:
 - 3.1 Whether to appoint a committee of inspection; and
 - 3.2 If so, who are to be the committee's members.
4. At the meeting, creditors may also, by resolution:
 - 4.1 Remove the Administrators from office; and
 - 4.2 Appoint someone else as Administrator of the Companies.

Creditors wishing to vote at the meeting, must complete a formal proof of debt form electronically by registering a claim on the Creditors' Portal and complete a proxy form (**Annexure G1**) by no later than **4:00pm (ACDT) on Tuesday, 29 October 2024**. A completed proxy form can be emailed to us at sjain41@kpmg.com.au.

A person is not entitled to vote at the meeting unless they lodge particulars of the debt or claim via the Creditors' Portal before the meeting. All creditors must upload to the Creditors' Portal full details of their claims, indicating whether they rank as secured, preferential or unsecured, and whether they claim title to any goods supplied to the Companies or any lien over goods in their possession which are the property of the Companies.

Should you wish to attend the meeting, please click on the following link to register to attend – <https://creditors.accountants/>. Once you have registered you will receive an automatic response providing you with a link to the meeting and dial in details.

Dated this 18th day of October 2024



TD Mablesen
Joint & Several Voluntary Administrator

c/- KPMG
Tel: +61 8 8236 3169
Fax: +61 8 8236 3299
Email: sjain41@kpmg.com.au

Note: In accordance with IPR Section 75-15(1)(c) please see effect of IPR Section 75-85 Entitlement to vote at meetings of creditors on the following page.

Effect of IPR Section 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.

Annexure B

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(All Administrators Appointed)
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Short guide to the Creditors' Portal

We are using the Creditors' Portal as the primary tool for communicating with creditors and managing claims.

We have prepared this short guide to assist you as a creditor to understand the process that you must undertake to ensure you are appropriately registered as a creditor of the Companies.

Please note, the email registered on the Creditors' Portal will receive all notifications including circulars and reports issued by the Administrators.

Please refer to the following link for further guidance on how to register, submit and manage a claim:
<https://creditors.accountants/Help>



Step 1: Register

- Register as a user at the following link: <https://creditors.accountants/> (use chrome, edge or firefox).
- You will receive a confirmation email to verify your account (verify your email address within 24 hours of registering as a user).
- Once verified, you will be redirected to the Portal.
- If you are already a registered user, please skip to “Login” below.



Step 2: Log in

- Log into the Portal using your username and password.
- You will be redirected to a screen where you need to input the following details:
 - Company creditor – an ABN; or
 - Individual creditor – first and last name.
- You will be prompted to make a declaration to confirm that you are authorised to act on behalf of the company or individual and agree on how you wish to receive future correspondence.



Step 3: Link creditor

- Once you have completed your declaration, you will be redirected to the Portal landing page where you can view the Company under “Recent Interactions”.
- If you cannot view the Company listed on the landing page you may need a creditor code to link your profile to the Company.
- Please contact the External Administrators for a unique code to register your claim.
- Once you receive your creditor code, log in and click on your user name in the top right hand side and click on “Creditor Admin” and input your code and click “Link”
- There will be an option to provide an ABN (if relevant) for company creditors, click “I do not have an ABN” (individuals) and then click “continue”
- Follow the prompts and confirm you are authorised to act on behalf of the creditor.



Step 4: View company and documents

- You will be able to view the Companies on the landing page or under the “Debtors” tab and click “My debtors” or “My claims”. Click on “Details” to be directed to the Companies.
- You will be able to view any documents uploaded under the “Documents” tab that relate to the Companies.
- There are additional resources that you can also access under the “Resources” tab.



Step 5: Submit a Formal Proof of Debt Form (POD)

- You will be able to view the Group on the landing page or under the “Debtors” tab and click “My debtors” or “My claims”. Click on “Details” to be directed to the Group.
- Click on the “Proof of Debt” tab.
- Click on the “Submit” button and start completing the POD form.
- Tick “No” to the question “Is your proof of debt informal”. If you are an employee creditor, this will not be an option.
- Upload any supporting documentation for consideration.
- Press “Next” and “Submit”.



Step 6: Be admitted for voting (performed by the External Administrators)

- Once you have submitted a POD with supporting documentation, we will evaluate your claim to admit for voting purposes at the online meeting .
- If necessary, the External Administrators will request further information with respect to your claim.
- The External Administrators will announce your admission status once the online meeting commences.



Step 7: Appoint a proxy (required for company creditors, optional for individuals)

- If you are a company creditor or individual that is appointing the Chairperson or an alternative person to vote (alternate email to the email registered initially) please complete a proxy form attached to the report to creditors and submit **via email** to the External Administrators.
- The External Administrators will provide the nominated proxy holder with a unique creditor code prior to the meeting for voting purposes only.
- The nominated proxy holder will need to register on the Portal (**Step 1 to Step 3**) to be provided with access to vote at the online meeting on behalf of the creditor.



Step 8: Voting at the online meeting

- You will only be able to vote from the time the online meeting commences (one hour before).
- Log into the Portal and click on “Open for voting” on the landing page or the “Debtors” tab and “My debtors” and click on the relevant company.
- You will be able to view the online meeting under the “Polls” tab.
- You will be able to view the resolutions on the screen with the option to vote “in favour, against or abstain”.
- If you are a nominated proxy holder, you will be able to view the resolutions and the creditor that you are acting on behalf of.
- The chairperson will read the resolutions, allow you to vote prior to locking the resolutions.
- Please ensure you click “Submit” after placing your votes.

Annexure C

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



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Corporations Act 2001

Bibere Australian Beverages Pty Ltd trading as Fox Creek Wines (ACN 644 054 320)
Crescere Australian Vineyards Pty Ltd (ACN 654 310 666)
Opportuna Investments Pty Ltd (ACN 662 805 950)
(All Administrators Appointed)
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Declaration of Independence, Relevant Relationships and Indemnities

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

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

This declaration is made in respect of ourselves, our partners, KPMG Australia and related parties covered by the extended definition of the firm (collectively **KPMG**).

We are a Professional Member(s) of ARITA – Australian Restructuring Insolvency and Turnaround Association. We acknowledge that we are bound by the ARITA Code of Professional Practice.

A. Independence

We, Tim Mableson and David Kidman, have assessed our independence and we are not aware of any reasons that would prevent us from accepting this appointment.

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

B. Circumstances of appointment

(i) How we were referred this appointment

The initial contact with the sole Director of the Companies, Ben Gibson, was by way of telephone call from Ben Gibson to Tim Mableson on 15 August 2024.

We believe that a call from the Director of the Companies, by whom KPMG Australia has not acted for previously, does not result in a conflict of interest or duty or impact our independence in carrying out our duties as administrator.

(ii) Did we meet with the Companies before we were appointed?

Yes No

We had two meetings in addition to telephone calls and email correspondence with the Companies' Director between 15 August 2024 and 17 October 2024. A summary is provided at Annexure A.

These meetings / telephone calls / email correspondence were for the purposes of:

- Briefing Tim Mableson and relevant KPMG staff on the organisation, operations and financial circumstances of the Companies.
- Explaining and discussing the various options available to the Companies and the nature and consequences of an insolvency appointment with the Companies' Director.
- Obtain sufficient information about the financial position of the Companies to perform preliminary planning for any future voluntary administration appointment.
- Providing a consent to act.

In our opinion, these communications do not affect our independence for the following reasons:

- KPMG's advice was limited to assessing the Companies' financial position, the consequences of insolvency and restructuring options from a contingency planning perspective.
- Advice was given to the Companies only. We did not advise the Director personally or others.
- The Courts and the applicable professional standards specifically recognise the need for practitioners to provide advice on the insolvency process and the options available and do not consider that such advice results in a conflict or an impediment to accepting the appointment.
- The nature of the advice is such that it would not be subject to review and challenge during the administration.
- The pre-appointment advice 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 received no remuneration for the pre-appointment work undertaken as detailed in this DIRRI.

We have provided no other information or advice to the Companies prior to our appointment beyond that outlined in this DIRRI.

C. Declaration of relationships

Within the previous two years, have we, or KPMG, had a relationship with:	
The Companies?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
The Director?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Any associates of the Companies?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

	Nature of relationship	Reasons no impediment or conflict of interest or duty
A secured creditor entitled to enforce a security over the whole or substantially the whole of the Companies' property?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
	Nature of relationship	Reasons no impediment or conflict of interest or duty
	Westpac Banking Corporation (Westpac) holds security interests over the Companies' property. We and KPMG have professional relationships with most of the major banks and lenders in Australia and with a number of staff within the Westpac's organisation, particularly in the credit and workout areas. We and KPMG have previously undertaken formal and informal assignments on behalf of the Westpac for a number of years.	We believe that this relationship does not result in a conflict of interest or duty because KPMG's previous relationships with Westpac were not in relation to the Companies' and/or the director's affairs, or related parties of the Companies and/or the director.

Do we, or KPMG, have any other relationships that we consider are relevant to creditors assessing our independence?

Yes No

D. Indemnities and up-front payments

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

Dated this 18th day of October 2024



Tim Mableson
Joint & Several Voluntary Administrator



David Kidman
Joint & Several Voluntary Administrator

Note:

- 1 The assessment of independence has been made based on an evaluation of the significance of any threats to independence and in accordance with the requirements of the relevant legislation and professional standards.
- 2 If circumstances change, or new information is identified, we are required under the Corporations Act and ARITA's Code of Professional Practice to update this Declaration and provide a copy to creditors with our next communication as well as table a copy of any replacement Declaration at the next meeting of creditors. For creditors' voluntary liquidations and voluntary administrations, this document and any updated versions of this document are required to be lodged with ASIC.

Annexure A – summary of pre-appointment meetings, telephone calls and email correspondence

Date	Type of correspondence	KPMG attendees	External attendees	Purpose
15 August 2024	Telephone call	Tim Mableson	Ben Gibson	On referral from the Companies lawyer, Ben Gibson had been speaking with another potential external administrator, however, was seeking a second opinion including with regards to Westpac relationship
16 August 2024	Email correspondence	Tim Mableson	Ben Gibson	Email from Tim Mableson following the call on 15 August 2024 providing a request for information to consider the financial performance and position of the Companies so that options could be determined
20 August 2024	Data room	Tim Mableson	Ben Gibson	Ben Gibson established a Google drive data room for the purposes of sharing information with KPMG
21 August 2024	Telephone call	Tim Mableson	Ben Gibson	Ben Gibson called seeking clarification regarding who makes the appointment of voluntary administrators and the role of shareholders regarding same
21 August 2024	Email correspondence	Tim Mableson	Ben Gibson	Email exchange between Ben Gibson and Tim Mableson regarding relevant clauses of the Act and the Constitution of Bibere Australian Beverages Pty Ltd for the purposes of a potential voluntary administration appointment
6 September 2024	Meeting	Tim Mableson George Choimes	Ben Gibson	Meeting to receive information regarding the current status of the Companies including their financial position so that options for the Companies could be discussed including potential voluntary administration

16 September 2024	Data room	Tim Mableson George Choimes	Ben Gibson	Ben Gibson uploaded further financial information into the Google drive data room to assist with contingency planning with KPMG
1 October 2024	Telephone call	Tim Mableson	Ben Gibson	Ben Gibson called to provide an update regarding his contingency planning related to a potential voluntary administration
3 October 2024	Telephone call	Tim Mableson	Ben Gibson	Ben Gibson called seeking clarification regarding aspects of a voluntary administration process
14 October 2024	Telephone Call	George Choimes	Ben Gibson	Ben Gibson called to provide an update regarding his contingency planning related to a potential voluntary administration
15 October 2024	Telephone Call	George Choimes	Ben Gibson	Ben Gibson called to provide an update regarding his contingency planning related to a potential voluntary administration
17 October 2024	Meeting	Tim Mableson George Choimes	Ben Gibson Karrie-Anne Lawson (shareholder and COO of Fox Creek Wines)	Meeting at KPMG to receive an update regarding the status of the Companies and to discuss and plan for a voluntary administration appointment

Annexure D

Short guide to the Personal Property Securities Act

What is Personal the Property Securities Act?

The Personal Property Securities Act 2009 (PPSA) established national legislation governing security interests in personal property. It replaced a large number of existing Commonwealth, State and Territory laws. "Personal Property" is any property that is not "Real Property" being land and buildings or fixtures. Personal Property generally includes all property (tangible and intangible) other than land, fixtures, most water rights and some statutory licences. It includes goods or inventory, intellectual property, shares, debts and contractual rights.

There is a single national Register for parties to record their interests in personal property, called the Personal Property Securities Register (PPSR); on which all security interests in personal property can be registered. The PPSR replaced a number of State and Commonwealth registers, including the ASIC Register of Company Charges and all State Registers of Encumbered Vehicles (REVs). Any holder of a security interest in a personal property must register to ensure they have a priority to claim that property.

The PPSA has changed the way security interests are dealt with across Australia. Legal title to personal property in some situations is no longer enough to protect owners, as this legislation overturns fundamental personal property law concepts.

What is a 'Security Interest'?

A security interest is an interest in personal property, created by a transaction that secures payment or performance of an obligation.

Security interests can include:

- Interests of owners in assets leased to other parties;
- Interests of sellers of goods subject to hire purchase agreements;
- Interests of suppliers in stock delivered but subject to retention of title arrangements.

The PPSA states that a security interest exists regardless of the form of the transaction, or the identity of the person who has title to the property. The concept of a security interest under PPSA covers a broader range of interests than traditional security concepts.

If you have a security interest, it must be perfected. If you have not perfected your security interest, usually by registration on the PPSR, you may lose the ability to enforce your claim.

This document is intended to provide commentary and general information only. It is not intended to provide legal or professional advice, is not intended as a substitute for legal or professional advice, and should not be relied upon as such. Readers of this document should seek their own legal or professional advice with respect to their own circumstances

How does PPSA impact your business?

There are some significant implications for businesses arising from the PPSA, for example:

Retention of title arrangements

Some transactions that were not previously security interests are now registrable on the PPSR. For example, if you sell goods on retention of title terms, you may need to review your terms of trade and register an interest on the PPSR to protect your interest in stock delivered but not paid for.

Leases

Under the PPSA, 'title' or 'ownership' of goods can have a lower status than possession or control of goods if the owner of the goods has not registered their interest on the PPSR. You should register your security interest to 'perfect' your rights. If you do not register, then you may not be able to recover your goods or receive payment if the customer becomes insolvent. You may also lose your rights to another creditor of the customer who has 'perfected' their security interest over the property.

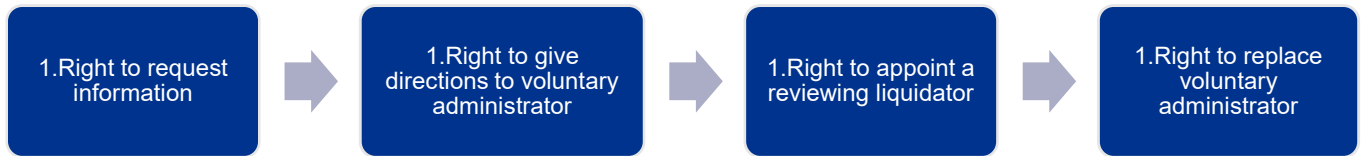
You should seek legal advice about the implications of the PPSA to your individual circumstances.

SecuriSearch is an Android, iOS and Windows application allowing users to search and review the PPSA quickly and easily from a mobile device. Visit our website at: <http://www.securisearch.com.au/>

Annexure E

Creditor Rights in Voluntary Administrations

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



Right to request information

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

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

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

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

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

A voluntary administrator must provide this information to a creditor within 5 business days of receiving the request, unless a longer period is agreed.

If, due to the nature of the information requested, the voluntary administrator requires more time to comply with the request, they can extend the period by notifying the creditor in writing.

Requests must be reasonable.

They are not reasonable if:

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

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

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

Right to give directions to voluntary administrator

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

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

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

Right to appoint a reviewing liquidator

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

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

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

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

Right to replace voluntary administrator

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

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

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

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

It is however usual for the voluntary administrator to act as deed administrator or liquidator. It would be expected that additional costs would be incurred by an alternate deed administrator or liquidator to gain the level of knowledge of the voluntary administrator. These additional costs of appointing another registered liquidator are paid from the assets of the deed of company arrangement or liquidation, in priority to creditor claims.

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

Annexure F

Bibere Australian Beverages Pty Ltd trading as Fox Creek Wines (ACN 644 054 320)
Crescere Australian Vineyards Pty Ltd (ACN 654 310 666)
Opportuna Investments Pty Ltd (ACN 662 805 950)

(All Administrators Appointed)
(Collectively referred to as “the Companies”)

Initial Remuneration Notice

The purpose of the Initial Remuneration Notice is to provide creditors with information about how the Administrators' remuneration for undertaking the administration will be set.

1 Remuneration methods

There are four basic methods that can be used to calculate the remuneration charged by an Insolvency Practitioner as follows:

1.1 Time based (hourly rates)

This is the most common method. The total fee charged is calculated by reference to the hourly or time unit rate charged for each person who carries out the work multiplied by the number of hours spent by each person on necessary work properly performed.

1.2 Fixed fee

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

1.3 Percentage

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

1.4 Contingency

The insolvency practitioner's fee is contingent on achieving a particular outcome.

2 Remuneration method chosen

Given the nature and complexity of this administration, we propose that the remuneration of the Administrators be calculated using the time based method. Time based remuneration is appropriate in this administration given:

- It ensures actual time is billed at an hourly rate applicable to staff experience;
- It ensures that remuneration claimed is only for necessary work properly performed in the administration; and
- It covers tasks required to be undertaken in the administration which not only relate to asset realisations but also to reporting requirements and other tasks of an administrative or statutory nature.

3 Explanation of hourly rates

The hourly rates for our remuneration calculation are set out in the following table together with a general guide showing the qualifications and experience of staff engaged in the administration and the role they take. The hourly rates utilised are KPMG's standard South Australian rates and encompass the total cost of providing professional services and should not be compared to an hourly wage.

Title	Rate \$/hour (excl GST)	Experience
Appointee / Partner	\$760.00	Registered Liquidator. Appointee bringing his or her specialist skills to the administration or insolvency task.
Director	\$670.00	Minimum of twelve years insolvency experience, at least five years at manager level, qualified accountant and capable of controlling all aspects of an administration.
Associate Director	\$625.00	More than 7 years insolvency experience, more than 3 years as a manager, qualified accountant. Answerable to the appointee but otherwise responsible for all aspects of administration. Experienced at all levels and considered very competent. Control staff and their training.
Manager	\$560.00	5-7 years, qualified accountant, with well-developed technical and commercial skills. Self-sufficiently conducts small insolvency appointments and takes a supervisory role on work streams in larger matters.
Executive	\$475.00	2-5 years. Post graduate qualification (or equivalent) would normally be completed within this period. Assists planning and control of small to medium sized jobs as well as performing some of the more difficult work on larger jobs.
Analyst	\$405.00	0-2 years. Completed an undergraduate degree and commenced post graduate qualification (or equivalent) in this period. Assists senior staff members on aspects of the administration and completes administrative and statutory tasks independently.
Senior Treasury	\$300.00	
Treasury	\$270.00	Appropriately experienced and undertakes support activities.
Personal Assistant	\$250.00	

Notes:

- *The guide to staff experience is intended only as a general guide to the qualifications and experience of staff working on the administration. Staff may be engaged under a classification considered appropriate for their experience.*
- *Time is recorded and charged in six-minute increments.*
- *KPMG regularly reviews its professional rates having regard to market conditions. From time to time, KPMG may seek creditor approval to adopt revised professional rates charged to this matter.*

4 Estimated remuneration

Because the Administrators have just commenced the administration process and are conducting an urgent review of the business and its operations to assess options, it is extremely difficult to provide a precise estimate of the Administrators remuneration for the entire voluntary administration. Based on our experience conducting voluntary administrations for companies of this size, we currently estimate fees for the administration of the Companies' affairs to the second meeting of creditors (assuming that meeting is held based on the default convening period of 25 business days, with no extension of the timing) of at least \$150,000 (excluding GST and disbursements).

It should be noted that if, during the course of the administration, any unanticipated issues arise or the scope of tasks and duties of the Administrators changes which increases the time required by the Administrators to complete their process, including if an application to Court to extend the convening period is granted, it will be necessary to revisit the fee estimate and creditors will be advised accordingly. Ultimately creditors approve the Administrators remuneration (ie the Administrators cannot draw their remuneration without creditor approval).

5 Disbursements

Disbursements are divided into three types:

- Externally provided professional services. These are recovered at cost. An example is legal fees.
- Externally provided non-professional costs such as travel, accommodation and search fees. These disbursements are recovered at cost.
- Internal disbursements such as photocopying, printing and postage. These disbursements, if charged to the administration, would generally be charged at cost. Certain services provided by KPMG may require the processing of electronically stored information into specialist review platforms. Where these specialist resources are utilised, the fee will be based on units (e.g. number of computers), size (e.g. per gigabyte) and/or period of time (e.g. period of hosting).

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

We are required to obtain creditor's consent for the payment of internal disbursements where there may be a profit or advantage. Creditors will be asked to approve our internal disbursements prior to these disbursements being paid from the administration.

Details of the basis of recovering disbursements in this administration are provided below:

Disbursement type	Charges (excl GST)
Advertising	At cost
ASIC industry funding model levy – metric events	At prescribed ASIC rates
Couriers	At cost
Data room hosting (incl 100GB of data + 40 users)	\$2,500 per month
Data room hosting (burst user fees above 40 users)	\$50 per user per month
Data room hosting (burst storage fees per GB above 100GB)	\$10 per GB per month
eDiscovery services	Variable
KPMG National Service Centre (engagement administrative support)	\$2,120
Photocopying / printing (outsourced)	At cost
Postage	At cost
Searches	At cost
Staff travel reimbursement	Up to \$100/day
Staff vehicle use	At prescribed ATO rates
Storage and storage transit	At cost
Telephone calls	At cost

Notes:

- *KPMG regularly reviews its disbursement charges having regard to market conditions. From time to time, KPMG may seek creditor approval to adopt revised disbursement charges for this matter.*

Dated this 18th day of October 2024



TD Mableson
Joint & Several Voluntary Administrator

Annexure G

Forms to be completed

Creditors should review the contents of this circular and complete the following forms by **4:00pm (ACDT) on Tuesday, 29 October 2024**:

Form/ voting	Where to submit
Appointment of proxy – (Form 532) (Annexure G1)	Email: sjain41@Kpmg.com.au
COI nomination form (Annexure G2)	Post: GPO Box 2499, ADELAIDE SA 5001
Proof of debt – (Form 535)	Via Creditors' Portal https://creditors.accountants/
Online voting at the meeting of creditors	Via Creditors' Portal and teleconference details

Annexure G1

Form 532 - Appointment of Proxy
Insolvency Practice Rules (Corporations) 2016, Section 75-25

Return no later than 4:00pm (ACDT) on Tuesday, 29 October 2024 to KPMG, GPO Box 2499, ADELAIDE SA 5001
Tel: +61 8 8236 3169
Fax: +61 8 8236 3299
Email: sjain41@kpmg.com.au

Indebted company of the Group:
(please select as appropriate)

- Bibere Australian Beverages Pty Ltd trading as Fox Creek Wines (ACN 644 054 320)
- Crescere Australian Vineyards Pty Ltd (ACN 654 310 666)
- Opportuna Investments Pty Ltd (ACN 662 805 950)

(All Administrators Appointed)
(Collectively referred to as "the Companies")

Date of Appointment: 18 October 2024

A. Name and Contact Details of Person or Entity Entitled to Attend Meeting

¹

(if entitled in a personal capacity, given name and surname; if a corporate entity, full name of company, etc)

² of

(address)

³ Tel:

⁴ Email:

B. Appointment of Person to Act as Proxy

Note: You may nominate "the Chairperson of the meeting" as your proxy (or your alternate proxy in the event that the first-named proxy is not in attendance).

¹ I/We, as named in Section A above, a creditor/employee/contributory/member of the Companies, appoint

²

(name of person appointed as proxy)

³

⁴ or in his / her absence

(address of person appointed as proxy)

⁵

(name of person appointed as alternate proxy)

⁶

⁷ as *my / *our proxy

(address of person appointed as alternate proxy)

to vote at the meeting of creditors to be held as a virtual meeting on 30 October 2024 at 3:00pm (ACDT), or at any adjournment of that meeting in accordance with the instructions in Section C below.

C. Voting Instructions

¹ *My / *Our proxy, as named in Section B above, is entitled to act as *my / *our:

² **general proxy**, to vote on *my / *our behalf **and / or**

³ **special proxy**, to vote on *my / *our behalf specifically as follows:

Resolution	For	Against	Abstain
1. If an alternate Administrator is proposed, a resolution will be put to the meeting to consider any alternative appointee (if applicable).	To be voted on at the meeting	To be voted on at the meeting	To be voted on at the meeting
2. That a Committee of Inspection be appointed, the members of which are to be determined by the meeting.	To be voted on at the meeting	To be voted on at the meeting	To be voted on at the meeting

D. Signature

¹ Dated:

² Signature:

³ Name / Capacity:

Creditor Assistance Sheet: Completing a Proxy Form

Section A – Name and Contact Details of Person or Entity Entitled to Attend Meeting

1. Insert the full name of the employee, individual, sole trader, partnership or company that the debt is owed to.
2. Insert the address of the employee, individual, sole trader, partnership or company that the debt is owed to.
3. Insert the telephone number of the employee, individual, sole trader, partnership or company that the debt is owed to.
4. Insert the email address of the employee, individual, sole trader, partnership or company that the debt is owed to.

Section B – Appointment of Person to Act as Proxy

1. Cross out any wording that is **not** applicable. For example, if the employee/individual/sole trader/partnership/company is a creditor, cross out ‘*eligible employee creditor’, ‘*contributory’, ‘*debenture holder’ and ‘*member’.
2. Insert the name of the person who will be exercising the creditor’s vote at the meeting. If someone is attending the meeting in person, that person’s name should be inserted. Alternatively, if someone is unable to attend, but you still want to cast a vote at the meeting, then you can appoint the Chairperson of the meeting to vote on your behalf by inserting the words ‘the Chairperson’ here.
3. Insert the address of the person nominated at (2) that will be attending the meeting as proxy. If you have elected ‘the Chairperson’ because no one is attending in person, leave this row blank.
4. Cross out any wording that is **not** applicable.
5. If the person you have elected to attend is unavailable on the day, you may nominate a second person to attend in their absence. Alternatively, you can appoint the Chairperson of the meeting to vote on your behalf by inserting ‘the Chairperson’.
6. Insert the address of the second person here. If you have elected ‘the Chairperson’, leave this row blank.
7. Cross out any wording that is not applicable.

Section C – Voting Instructions

1. Cross out any wording that is not applicable.
2. Insert an ‘X’ in this box if you want the person who is attending the meeting to vote as they see fit on each of the resolutions in the ‘Resolution’ table. If you select this option, proceed to Section D, **unless** you wish to vote specifically on certain resolutions, in which case you also insert an ‘X’ in the special proxy box and select ‘For’, ‘Against’ or ‘Abstain’ on the resolutions. The person voting at the meeting will have discretion to vote as they see fit on any resolutions where you have **not** selected ‘For’, ‘Against’ or ‘Abstain’.
3. Insert an ‘X’ in this box if you want the person who is attending the meeting, to vote exactly in accordance with your instructions. If you select this option, you must select ‘For’, ‘Against’ or ‘Abstain’ for each of the resolutions in the ‘Resolution’ table. Do not tick more than one box for each resolution.

Section D – Signature Instructions

1. Insert the date that the proxy form is being signed.
2. The form should be signed by **one** of the following persons:
 - If the debt is owed to an employee/individual, then the individual that the debt is owed to; or
 - If the debt is owed to a sole trader, then the sole trader that the debt is owed to; or
 - If the debt is owed to a partnership, then one of the partners of the partnership; or
 - If the debt is owed to a company, then a duly authorised office of the company (normally a director or secretary of the company).
3. Insert the name of the person signing the form, and note their capacity (that is, their role):
 - If the debt is owed to a sole trader, note their capacity as proprietor, eg: “[Full name], proprietor”; or
 - If the debt is owed to a partnership, note their capacity as partner, eg: “[Full name], partner of the firm named in Section A above”; or
 - If the debt is owed to a company, note their capacity as director or secretary, eg: “[Full name], director/secretary of the company named in Section A above”]

Annexure G2

Nomination Form – Committee of Inspection

Section 80-55 of Schedule to the Corporations Act 2001

Return no later than 4:00pm (ACDT) on Tuesday, 29 October 2024 to KPMG, GPO Box 2499, ADELAIDE SA 5001
Tel: +61 8 8236 3169
Fax: +61 8 8236 3299
Email: sjain41@kpmg.com.au

**Indebted company of the Group:
(please select as appropriate)**

- Bibere Australian Beverages Pty Ltd trading as Fox Creek Wines (ACN 644 054 320)
- Crescere Australian Vineyards Pty Ltd (ACN 654 310 666)
- Opportuna Investments Pty Ltd (ACN 662 805 950)

**(All Administrators Appointed)
(Collectively referred to as “the Companies”)**

Date of Appointment: 18 October 2024

A. Name and Contact Details of Person or Entity Entitled to Attend Meeting

1
(if entitled in a personal capacity, given name and surname; if a corporate entity, full name of company, etc)
2 of
(address)

3 Tel: _____ 4 Email: _____

B. Nomination of Person as Member of Committee of Inspection, if one is appointed

I/We, as named in Section A above, nominate
1
(name of person nominated as member of Committee of Inspection, if one is appointed)
2
(address of person nominated as member of Committee of Inspection, if one is appointed)
3
(email address of person nominated as member of Committee of Inspection, if one is appointed)

C. Declaration in relation to Transactions with the Indebted Companies

During the external administration, I/We, as named in Section A above, contemplate entering into the following transactions with the Indebted Companies during the external administration¹:

- continuance of service and/or supply agreements** as detailed below:
.....
.....
- potential acquisition of the business and/or assets** of the Indebted Companies
- other** – please provide details below:
.....
.....

D. Signature

1 Dated: _____
2 Signature: _____
3 Name / Capacity: _____

Creditor Assistance Sheet: Completing a Committee of Inspection Nomination Form

Section A – Name and Contact Details of Person or Entity Entitled to Attend Meeting

1. Insert the full name of the employee, individual, sole trader, partnership or company that the debt is owed to.
2. Insert the address of the employee, individual, sole trader, partnership or company that the debt is owed to.
3. Insert the telephone number of the employee, individual, sole trader, partnership or company that the debt is owed to.
4. Insert the email address of the employee, individual, sole trader, partnership or company that the debt is owed to.

Section B – Nomination of Person as Member of Committee of Inspection, if one is appointed

1. Insert the name of the person who is being nominated by the creditor as the member of the Committee of Inspection.
2. Insert the address of the person nominated at (1).
3. Insert the email address of the person nominated at (1).

Section C – Declaration in relation to Transactions with the Indebted Companies

1. Indicate the type of transactions contemplated between the person/entity named in Section A and the Indebted Companies during the course of the external administration.

Section D – Signature Instructions

1. Insert the date that the nomination form is being signed.
2. The form should be signed by **one** of the following persons:
 - If the debt is owed to an employee/individual, then the individual that the debt is owed to; or
 - If the debt is owed to a sole trader, then the sole trader that the debt is owed to; or
 - If the debt is owed to a partnership, then one of the partners of the partnership; or
 - If the debt is owed to a company, then a duly authorised office of the company (normally a director or secretary of the company).
3. Insert the name of the person signing the form, and note their capacity (that is, their role):
 - If the debt is owed to a sole trader, note their capacity as proprietor, eg: “[Full name], proprietor”; or
 - If the debt is owed to a partnership, note their capacity as partner, eg: “[Full name], partner of the firm named in Section A above”; or
 - If the debt is owed to a company, note their capacity as director or secretary, eg: “[Full name], director/secretary of the company named in Section A above”]