



**Unlockd Limited ACN 169 872 502 (Unlockd Limited)**  
**Unlockd IP Pty Ltd ACN 602 741 355 (Unlockd IP)**  
**Unlockd AU Pty Ltd ACN 602 741 284 (Unlockd AU)**  
**Unlockd Operations Pty Ltd ACN 608 719 375 (Unlockd Operations)**  
**(all In Liquidation) (collectively "Unlockd Australia")**  
**Liquidators' Statutory Report to Creditors (Liquidators' Report)**

Keith Crawford and I were appointed Voluntary Administrators (**Administrators**) of the Unlockd Australia entities on 12 June 2018. Subsequently, on 17 October 2018 it was resolved at the second meeting of creditors that Keith Crawford and I be appointed Liquidators (**Liquidators**) of the Unlockd Australia entities.

The purpose of this report is to:

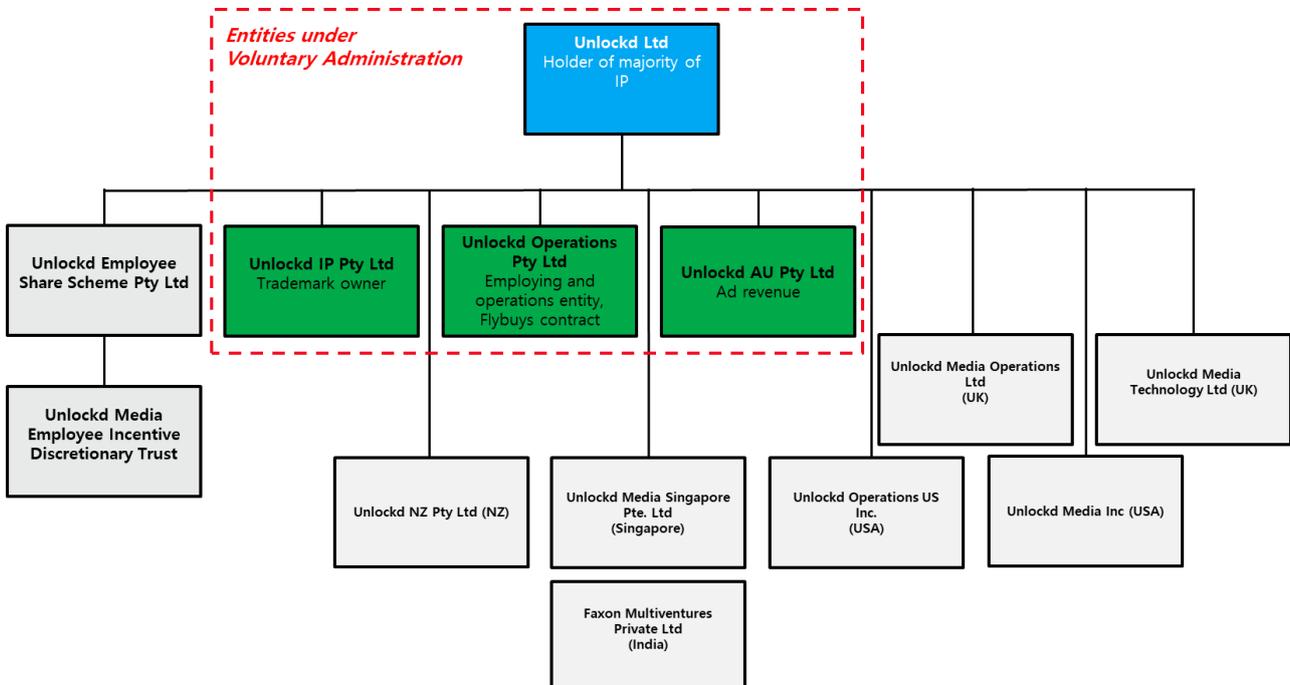
- provide creditors with an update on the progress of the liquidation of the Unlockd Australia entities; and
- advise creditors of the likelihood of a dividend being paid in the liquidation of the Unlockd Australia entities.

This report is to be read in conjunction with the Administrators' Report to Creditors dated 10 October 2018 issued pursuant to section 75-225 of the *Insolvency Practice Rules (Corporations) 2016* (Cth) (**Administrators' Report**). Defined terms in this report are consistent with those in the Administrators' Report.

## 1 Background

As outlined in the Administrators Report and Figure 1 below, Unlockd Limited is the parent entity in the Group of companies outlined below (**collectively Unlockd or the Group**).

**Figure 1: Unlockd Group structure**



Source: ASIC database and Company records

Unlockd is an Australian based technology start-up that had developed and patented a unique advertising and content serving process for Android smart phones. Unlockd licenced its app to commercial partners and made it publicly available on Google Play from 2015 and sourced AdMob content from 2016.



Unlocked Australia employed approximately 38 full-time, part-time and contract staff in Australia. Unlocked Limited's foreign subsidiaries also employed approximately 19 staff across the UK, USA and India.

Shortly after the Administrators' appointment on 12 June 2018 (**Appointment Date**), the Administrators commenced a sale of business and recapitalisation process for all or part of Unlocked Australia's business and assets, seeking to effect a sale of Unlocked on a going concern basis. Despite a number of positive negotiations, it became apparent that there was no interest in acquiring Unlocked Australia's operations on a going concern basis, and as a result Unlocked Australia's operations ceased in late July 2018. Negotiations with interested parties continued for the purchase of Unlocked Australia's business assets, and an asset sale agreement was subsequently executed on 24 September 2018 to acquire all of Unlocked Australia's intellectual property comprising its software, know how, brand names, and trademarks. The business asset sale subsequently settled on 24 October 2018.

In the absence of a going concern business sale or DOCA proposal, and noting that each of the Unlocked Australia entities were insolvent, creditors resolved at the second meeting of creditors on 17 October 2018 that each of the Unlocked Australia entities be placed into liquidation, and that Keith Crawford and Robert Smith be appointed joint and several liquidators of these entities.

## **2 Causes of failure**

Our investigations, as detailed in the Administrators' Report, indicate that Unlocked's failure was primarily a result of:

- the Google dispute and the potential resulting implications of having its applications removed from the Google Play Store and being denied access to AdMob revenue streams;
- insufficient cash flow available to prosecute the Google Proceedings in Australia, the UK and the USA;
- ongoing operating losses being incurred in the business;
- an inability to execute a trade sale in the timeframe allowed in light of available funding; and
- an inability to raise sufficient further capital to fund ongoing operations and the Google Proceedings.

The following sections provide an update on the various aspects of the liquidation to date.

## **3 Key actions undertaken since the second meeting of creditors**

Since the second meeting of creditors for the Unlocked Australia entities on 17 October 2018 the Liquidators have undertaken the following key tasks:

- continued to liaise with the ATO and AusIndustry in respect of Unlocked Limited's FY18 R&D tax refund claim, including attending meetings with both and answering numerous queries from AusIndustry;
- engaged with the Fair Entitlement Guarantee (FEG) and assisted Unlocked Operations staff with the lodgement of their employee entitlement claims;
- attended to the completion of the Business Asset Sale Agreement, including providing transition support to the incoming purchaser between contract execution and completion;
- continued to liaise with litigation funders regarding funding Unlocked's Google proceedings in Australia and the UK. Funding was not obtained by the October 2018 Court deadline in Australia, and as a result the Australian proceedings were discontinued on 30 October 2018. The Liquidators continue to support the UK Administrators and their legal advisors in respect of the UK proceedings against Google; and
- attended to all statutory reporting and taxation deadlines.



#### 4 Estimated assets and comparison to Report as to Affairs (RATA)

As discussed in the Administrators' Report, the Administrators received a RATA for each Unlockd Australia entity from Matthew Berriman, and the other directors attested to the content of the RATAs.

The tables following outline the RATAs presented by Unlockd Australia's directors, as well as the Liquidators' low and high estimated returns (including realisations to date). Key movements between the estimates provided in the Administrators' Report and those presented below are described in the header before each table.

##### 4.1 Unlockd Limited

The low side estimated outcome remains unchanged from the Administrators' Report. The high side estimate however has reduced circa \$0.4m (8 cents / \$) from the Administrators report, principally reflecting:

- i) a \$0.2m reduction in estimated intercompany proceeds, reflecting an indicative apportionment of Unlockd AU's net proceeds between Unlockd Limited and Unlockd Operations (which is still to be finalised);
- ii) an additional \$0.1m provision for costs to realise the FY18 R&D refund to reflect the additional work required by Unlockd's advisors to realise the asset; and
- iii) a \$0.1m increase in legal fees and trading of business costs from previous estimates. The increase in legal fees reflects additional work undertaken in respect of the Australian Google proceedings, and a provision for financial support of the UK proceedings.

##### Unlockd Limited - estimated return to creditors

A\$'000	Notes	RATA BV	RATA ERV	ERV	
				Low	High
<b>Recoveries</b>					
Cash at bank on appointment		1,021	1,021	1,021	1,021
R&D Refund	1	1,783	1,783	-	1,060
IP and other intangible assets	2	-	-	485	485
Intercompany loan receivables	3	42,888	-	327	327
Repayment of intercompany loan from Unlockd Operations	4	n/a	n/a	-	210
Voidable transactions and preference recoveries		n/a	n/a	-	-
Other income				2	2
<b>Costs of realisation</b>					
<i>Less: Trading of business &amp; asset realisation costs</i>	5			(342)	(342)
<i>Less: Funds advanced to Unlockd Operations per court order</i>	4			(210)	(210)
<i>Less: Appointees' fees and disbursements (approved and paid)</i>	6			(381)	(381)
<i>Less: Appointees' fees and disbursements (approved by creditors)</i>	6			(266)	(270)
<i>Less: Estimated Liquidator fees (approved by creditors)</i>	6			-	(55)
<i>Less: Legal fees and disbursements</i>	7			(586)	(475)
<i>Less: Contingency</i>				(50)	(25)
<b>Estimated amount available to unsecured creditors</b>				<b>-</b>	<b>1,346</b>

##### Unlockd Limited - estimated return to creditors

A\$'000	Notes	Low	High
<b>Estimated amount available to unsecured creditors</b>		<b>-</b>	<b>1,346</b>
<b>Unsecured creditors</b>			
Trade creditors	8	(2,422)	(2,422)
Intercompany creditors	8	(2,591)	(2,591)
<b>Estimated unsecured creditor claims</b>		<b>(5,014)</b>	<b>(5,014)</b>
<b>Estimated dividend to unsecured creditors (c/\$)</b>		<b>-</b>	<b>27</b>
Residual available for distribution to shareholders		-	-



- Note 1* Low reflects no R&D refund recovery, the high reflects recovery of the R&D refund claim for \$1.5 million, less direct costs of recovery and the ATO setting off its unsecured claim against this refund. The high side estimate includes an additional \$0.1m provision from that presented in the Administrators' Report for additional estimated costs to realise the FY18 R&D refund to reflect the additional work required by Unlockd's advisors to realise this asset.
- Note 2* Both the low and high reflect that the business asset sale completed in October 2018. The estimates reflect an indicative apportionment of sale proceeds between Unlockd Limited and Unlockd IP. The actual apportionment of sale proceeds between the Unlockd Australia entities is still to be confirmed.
- Note 3* Reflects intercompany loan recoveries from Unlockd Limited's domestic and foreign subsidiaries, and an estimated allocation of Unlockd AU's realisations after including an indicative apportionment of the Group's realisation costs to Unlockd AU. This amount has reduced by \$0.2m from that presented in the Administrators' Report, reflecting an indicative apportionment of Unlockd AU's net realisations between Unlockd Operations and Unlockd Limited. This apportionment is indicative only and is still to be finalised before any distributions are made. This estimate assumes no further recovery of foreign intercompany receivables.
- Note 4* Low assumes no recovery of the Unlockd Limited loan to Unlockd Operations. High reflects this amount being recovered in full.
- Note 5* Reflects costs incurred to date and estimated costs to go for trading the business and direct costs incurred in realising Unlockd Australia's assets.
- Note 6* Refer to section 13.2 of the Administrators' Report and the second meeting of creditors minutes for remuneration approvals received. The Voluntary Administrators' and Liquidators' fees will only be drawn where there are sufficient funds available to do so, and there has been no change in the amount sought for approval.
- Note 7* Estimated legal costs incurred during the Administration, including legal costs incurred in extending the convening period, drafting Unlockd Australia's Statement of Claim for the litigation, and maintaining Unlockd Limited's patent portfolio. Estimated legal costs has increased by circa \$0.1m from that presented in the Administrators' Report, reflecting additional legal work undertaken in respect of the Australian Google proceedings, and a provision for financial support of the UK proceedings.
- Note 8* Trade creditors refers to estimated external unsecured creditors of Unlockd Limited. Intercompany creditors relates to intercompany loans owing to other Unlockd Australia entities. Trade creditor balances will be finalised by reference to formal proofs of debt before any dividend distribution occurs (if relevant).



#### 4.2 Unlockd Operations

The low side estimated outcome remains unchanged from the Administrators' Report. The high side estimate however has increased \$141,000 from the Administrators report, principally reflecting:

- i) a \$0.2m increase in estimated intercompany proceeds from Unlockd AU, reflecting an indicative apportionment of Unlockd AU's net proceeds between Unlockd Limited and Unlockd Operations (which is still to be finalised); offset by
- ii) a circa \$50,000 increase in net trading of business costs reflecting increased hosting costs for Unlockd Australia's IT assets.

Unlockd Operations Pty Ltd - estimated return to creditors					
A\$'000	Notes	RATA BV	RATA ERV	ERV	
				Low	High
<b>Recoveries</b>					
Cash at bank on appointment	1	163	163	87	146
Australian entity intercompany loan receivables	2	11,810	-	-	860
Plant & equipment	3	211	211	25	25
Intercompany loan receivables	4			526	526
Funds advanced by Unlockd Limited per court order	5			210	210
Voidable transactions and preference recoveries		n/a	n/a	-	-
Trading inflows				1	1
<b>Costs of realisation</b>					
<i>Less: Net trading of business costs</i>	6			(447)	(420)
<i>Less: Appointees' fees and disbursements (approved and paid)</i>	7			(235)	(235)
<i>Less: Appointees' fees and disbursements (approved by creditors)</i>	7			(125)	(125)
<i>Less: Estimated Liquidator fees (approved by creditors)</i>	7			(42)	(42)
<i>Less: Funds repaid to Unlockd Limited</i>	5			-	(210)
<i>Less: Contingency</i>				-	(25)
<b>Estimated amount available to priority and unsecured creditors</b>				<b>-</b>	<b>711</b>
Unlockd Operations Pty Ltd - Estimated return to creditors					
A\$'000	Notes			Low	High
<b>Estimated amount available to priority creditors</b>					
Estimated amount available to priority creditors				-	711
Priority creditor claim	8			(1,270)	(1,270)
<b>Estimated distribution to priority creditors (c/\$)</b>				<b>-</b>	<b>56</b>
<b>Total available to unsecured creditors</b>				<b>-</b>	<b>-</b>
<b>Unsecured creditors</b>					
Trade creditors	9			(244)	(244)
Related party creditors	9			(28,459)	(28,459)
<b>Estimated unsecured creditor claims</b>				<b>(28,703)</b>	<b>(28,703)</b>
<b>Estimated dividend to unsecured creditors (c/\$)</b>				<b>-</b>	<b>-</b>
Residual available for distribution to shareholders				-	-

*Note 1* Low reflects cash at bank only. The high includes recoveries from Unlockd Operations' cash backed bank guarantees and credit card security deposits.

*Note 2* High reflects estimated intercompany proceeds from Unlockd IP, as a result of the intercompany loan waterfall discussed in section 6.4.2 of the Administrators' Report.



- Note 3* Sale of Unlockd Operation's plant and equipment to Staff, Unlockd Australia's landlord and through Pickles Auctions. The value of PP&E included in the directors' RATA reflected a material amount allocated to leasehold improvements, which are unrealisable in a wind down.
- Note 4* Reflects intercompany loan recoveries from Unlockd Australia's foreign subsidiaries and an updated estimated allocation of Unlockd AU's realisations after including an indicative apportionment of the Group's realisation costs to Unlockd AU. The preliminary indicative allocation results in a \$0.2m increase in realisations in the high estimate by comparison to that presented in the Administrators' Report. This apportionment is indicative only and is still to be finalised before any distributions are made. This estimate assumes no further recovery of foreign intercompany receivables.
- Note 5* Reflects funds advanced from Unlockd Limited in accordance with the Court order outlined in section 2.4.2 of the Administrators' Report. In the high scenario, this loan is assumed to be fully repaid to Unlockd Limited.
- Note 6* Reflects costs incurred to date and estimated costs to go for trading the business and direct costs incurred in realising Unlockd Australia's assets, net of foreign entity recharges for support services provided in relation to the Boost and Tesco contracts. This estimate has increased by circa \$50,000 in both the low and high estimated outcomes from that presented in the Administrators' Report to reflect increased hosting costs.
- Note 7* Refer to section 13.2 of the Administrators' Report and the second meeting of creditors minutes for remuneration approvals received. The Voluntary Administrators' and Liquidators' fees will only be drawn where there are sufficient funds available to do so, and there has been no change in the amount sought for approval.
- Note 8* Estimated priority creditor amount for unpaid employee entitlements. Priority creditors are required to be paid in full in Unlockd Operations before any amounts are available for distribution to ordinary unsecured creditors in this entity.
- Note 9* Trade creditors refers to estimated external unsecured creditors of Unlockd Operations. Intercompany creditors relates to intercompany loans owing to other Unlockd Australia entities. Trade creditor balances will be finalised by reference to formal proofs of debt before any dividend distribution occurs (if relevant).



### 4.3 Unlockd AU

The below estimated outcome for Unlockd AU remains unchanged from that presented in the Administrators' Report.

Unlockd AU Pty Ltd - estimated return to creditors				
A\$'000	Notes	RATA Value	RATA ERV	Liquidators ERV
<b>Recoveries</b>				
Cash at bank on appointment		45	45	45
Debtor recoveries	1	794	471	552
Intercompany loan receivables	2	2,590	-	-
Voidable transactions and preference recoveries		n/a	n/a	-
<b>Costs of realisation</b>				
<i>Less: Costs incurred in trading the business</i>	3			(4)
<i>Less: Appointees' fees and disbursements (approved by creditors)</i>	4			(93)
<i>Less: Estimated Liquidator fees (approved by creditors)</i>	4			(17)
<b>Estimated amount available to unsecured creditors</b>				<b>485</b>

Unlockd AU Pty Ltd - estimated return to creditors		
A\$'000	Notes	High
<b>Estimated amount available to unsecured creditors</b>		<b>485</b>
<b>Unsecured creditors</b>		
Trade creditors	5	(64)
Related party creditors	2	(421)
<b>Estimated unsecured creditor claims</b>		<b>(485)</b>
<b>Estimated dividend to non-related party unsecured creditors (c/\$)</b>		<b>100</b>
Residual available for distribution to shareholders		-

*Note 1* Reflects pre and post appointment debtor recoveries. No further debtor recoveries are expected.

*Note 2* The above analysis excludes any apportionment of realisation costs from other Unlockd Australia entities to Unlockd AU. Additionally (as previously outlined in the Administrators' Report) Unlockd AU received all of Unlockd Australia's revenue relating to the Flybuys contract. Despite this, none of Unlockd Australia's costs incurred in generating this revenue were charged to this Unlockd AU. Consequently, the Administrators consider that a material intercompany loan liability exists in Unlockd AU to other Unlockd Australia entities, as reflected in the "Related party creditors" balance.

The ERV presented reflects a "high" scenario for the one arms-length creditor in Unlockd AU, however we note that the low scenario return may materially differ subject to the quantum of this intercompany payable to other Unlockd Australia entities.

*Note 3* Principally reflects bad debts and FX translation variances.

*Note 4* Refer to section 13.2 of the Administrators' Report and the second meeting of creditors minutes for remuneration approvals received. The Voluntary Administrators' and Liquidators' fees will only be drawn where there are sufficient funds available to do so.

*Note 5* Reflects external unsecured creditors of Unlockd AU.



#### 4.4 Unlocked IP

The below estimated outcome for Unlocked IP remains unchanged from that presented in the Administrators' Report.

Unlocked IP Pty Ltd - estimated return to creditors					
A\$'000	Notes	RATA BV	RATA ERV	Liquidators ERV	
				Low	High
<b>Recoveries</b>					
Cash at bank on appointment		-	-	-	-
IP and other intangible assets	1	15	-	15	15
Intercompany loan receivables	2	2,590	-	-	910
<b>Costs of realisation</b>					
<i>Less: Appointees' fees and disbursements (approved by creditors)</i>	3			-	(53)
<i>Less: Estimated Liquidator fees (approved by creditors)</i>	3			-	(7)
<i>Less: Legal fees and disbursements</i>	4			(15)	(5)
<b>Estimated amount available to unsecured creditors</b>				-	<b>860</b>

Unlocked IP Pty Ltd - estimated return to creditors				
A\$'000	Notes	Claim	Claim	
			Low	High
<b>Estimated amount available to unsecured creditors</b>			-	<b>860</b>
<b>Unsecured creditors</b>				
Related party creditors	5		(4,891)	(4,891)
<b>Estimated unsecured creditor claims</b>			<b>(4,891)</b>	<b>(4,891)</b>
<b>Estimated dividend to unsecured creditors (c/\$)</b>			-	<b>18</b>
Residual available for distribution to shareholders			-	-

*Note 1* Reflects an indicative apportionment of the business asset sale proceeds attributed to Unlocked IP for its trade marks. The exact apportionment is still to be confirmed.

*Note 2* Reflects Unlocked IP's distribution from Unlocked Limited in the high scenario, being 35 cents in the \$ from Unlocked Limited's \$2.6 million creditor balance.

*Note 3* Refer to section 13.2 of the Administrators' Report and the second meeting of creditors minutes for remuneration approvals received. The Voluntary Administrators' and Liquidators' fees will only be drawn where there are sufficient funds available to do so.

*Note 4* Reflects estimated legal fees and disbursements required to maintain Unlocked IP's trademark portfolio.

*Note 5* Unlocked IP's only creditor is Unlocked Operations.

## 5 Investigations

As outlined in the Administrators' Report, preliminary investigations have been undertaken in relation to the conduct of the Directors prior to our appointment to determine if there are any amounts that may be recoverable in the liquidation.

Liquidators have certain powers available to them under the *Corporations Act 2001* (Cth) in relation to voidable transactions and, in certain circumstances, can take steps to unwind transactions that occurred prior to the Liquidators' appointment. Most of these voidable transactions require that the company was insolvent at the time the transaction was entered into.



The Liquidators investigations indicate that Unlockd likely remained solvent until 11 June 2018, being the day before the Appointment Date of the Administrators. Detailed analysis supporting this conclusion is outlined in the Administrators' Report.

In light of the limited time elapsing between the date of Unlockd's insolvency and the appointment of Administrators, and noting that insolvency is a prerequisite for a liquidator recovering voidable transactions, the Liquidators consider it unlikely there will be any return to creditors from the pursuit of voidable transactions.

Additionally, the Liquidators have not identified any breaches of directors duties to date. The Liquidators will report on any identified breaches of directors duties in the section 533 report issued to ASIC which will be lodged in the coming months (in accordance with the statutory deadline).

Absent information to the contrary becoming available, the Liquidators consider it unlikely that there is any commercial benefit in undertaking further enquiries or investigations at this point in time.

## 6 Receipts and payment to date

Outlined below in Figure 2 is a summary of the aggregate receipts and payments for the Unlockd Australia entities for the period 29 September 2018 to 11 January 2019, reflecting all receipts and payments occurring subsequent to those reported in the Administrators' Report. Individual entity receipts and payments for this periods are enclosed at Annexure A.

**Figure 2 – Unlockd Australia receipts and payments for the period 29 September 2018 to 11 January 2019**

Unlockd Australia summary of receipts and payments 29 September 2018 to 11 January 2019	
Item	A\$
<b>Receipts (including GST where relevant)</b>	
Business asset sale proceeds	385,000
Reimbursement of legal costs	57,750
GST refund	34,733
Debtors	27,836
Hosting cost reimbursement from purchaser	21,426
Pre-appointment refunds	12,223
Interest income	854
<b>Total receipts</b>	<b>539,822</b>
<b>Payments (including GST where relevant)</b>	
Legal fees and disbursements	(477,980)
IT hosting service costs	(225,924)
PAYG	(34,254)
Payroll tax	(16,130)
Superannuation	(15,611)
Sale advisor costs	(11,000)
Unlockd consultant costs	(8,647)
GST	(7,425)
Media & public relation advisor costs	(1,277)
Trading expense	(1,015)
Bank charges	(10)
<b>Total payment</b>	<b>(799,273)</b>
<b>Net receipts/(payments)</b>	<b>(259,450)</b>



## 7 Likelihood of a dividend

A number of factors will affect the likelihood of a dividend being paid to creditors, including:

- the complexities and challenges involved in realising Unlocked Limited's FY18 R&D refund claim;
- whether any realisations occur from Unlocked's foreign proceedings against Google, which we note are excluded entirely from the estimated outcomes presented in this update; and
- the quantum of future legal and other advisor costs required to finalise the liquidation.

Based on the information presently available, and as shown in the preceding sections regarding the assets and liabilities of each entity, whether sufficient funds will be available to enable a distribution to unsecured creditors is dependent on the specific amount received/paid in respect of each asset and liability.

If a dividend is to be paid, you will be contacted before that happens and, if you have not already done so, you will be asked to lodge a proof of debt. This formalises the record of your claim in the liquidation and is used to determine all claims against Unlocked.

## 8 Cost of the liquidation

This report is not seeking approval of further remuneration. The following resolutions were passed by creditors at the creditors' meeting held on 17 October 2018 in respect of the Liquidators' remuneration for the Unlocked Australia entities:

### Approved Liquidators' remuneration by entity

Entity	Amount (\$)
Unlocked Limited	55,095
Unlocked Operations	42,415
Unlocked AU	16,575
Unlocked IP	7,300
<b>Total (ex GST and disbursements)</b>	<b>121,385</b>

To date the Liquidators' remuneration is within the capped amount. If this changes however, the Liquidators may make a request for the approval of further remuneration from creditors to complete the liquidation.

## 9 What happens next?

We will proceed with the liquidation, which will include:

- attending to ongoing realisation workstreams with respect to Unlocked Limited's FY18 R&D refund claim and UK Google proceedings;
- assisting employees with respect to their entitlement claims under the FEG;
- attending to all statutory and administrative obligations, including any reporting to the Australian Securities and Investments Commission (**ASIC**); and
- if sufficient net recoveries are available, calculating and attending to a distribution to creditors.

If we receive a request for a meeting that complies with the guidelines set out in the initial information provided to you, we will hold a meeting of creditors. We may write to you again with further information on the progress of the liquidation.

We expect to have completed this liquidation within 18 months, however this is contingent on the time required to complete key outstanding asset realisation processes.



## 10 Where can you get more information?

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

- ARITA at [www.arita.com.au/creditors](http://www.arita.com.au/creditors).
- ASIC at [www.asic.gov.au](http://www.asic.gov.au) (search for "insolvency information sheets").

If you have any queries, please contact Olivia Lock on (03) 9278 1049. For further information about this engagement, please refer to the website [www.mcgrathnicol.com/creditors](http://www.mcgrathnicol.com/creditors).

Dated: 17 January 2019

Robert Smith  
*Liquidator*

Enclosures:

- 1 Summary of receipts and payments from 29 September 2018 to 11 January 2019
- 2 ARITA Information Sheet – Offences, Recoverable Transactions & Insolvent Trading



## Annexure A – Summary of receipts and payments from 29 September 2018 to 11 January 2019

### Unlockd Limited summary of receipts and payments 29 September 2018 to 11 January 2019

<b>Receipts (inc GST where relevant)</b>	<b>A\$</b>
Business asset sale proceeds	385,000
Reimbursement of legal costs	57,750
GST refund	34,733
Hosting cost reimbursement from purchaser	21,426
Interest income	232
<b>Total receipts</b>	<b>499,140</b>
<b>Payments (inc GST where relevant)</b>	
Legal fees and disbursements	(477,980)
IT hosting service costs	(89,413)
Apportionment of hosting costs to Unlockd Operations	(12,867)
Sale advisor costs	(11,000)
Unlockd consultant costs	(8,647)
Media & public relation advisor costs	(1,277)
Trading expense	(1,015)
<b>Total payment</b>	<b>(602,199)</b>
<b>Net receipts/(payments)</b>	<b>(103,058)</b>

*Source: bank accounts*

### Unlockd Operations summary of receipts and payments 29 September 2018 to 11 January 2019

<b>Receipts (inc GST where relevant)</b>	<b>A\$</b>
Hosting cost reimbursement from purchaser	12,867
Pre-appointment refunds	12,223
<b>Total receipts</b>	<b>25,090</b>
<b>Payments (inc GST where relevant)</b>	
IT hosting service costs	(136,510)
PAYG	(34,254)
Payroll tax	(16,130)
Superannuation	(15,611)
<b>Total payments</b>	<b>(202,506)</b>
<b>Net receipts / payments</b>	<b>(177,416)</b>

*Source: bank accounts*



#### Unlockd AU summary of receipts and payments 29 September 2018 to 11 January 2019

<b>Receipts (inc GST where relevant)</b>	<b>A\$</b>
Debtors	27,836
Interest income	623
<b>Total receipts</b>	<b>28,459</b>
<b>Payments (inc GST where relevant)</b>	
GST	(7,425)
Bank charges	(10)
<b>Total payments</b>	<b>(7,435)</b>
<b>Net receipts / payments</b>	<b>21,024</b>

*Source: bank accounts*

#### Unlockd IP summary of receipts and payments 29 September 2018 to 11 January 2019

<b>Receipts</b>	<b>A\$</b>
<b>Total receipts</b>	-
<b>Payments</b>	
<b>Total payments</b>	-
<b>Net receipts / payments</b>	-

*Note: no transactions have accrued in the Unlockd IP bank account*

# Creditor Information Sheet

## Offences, Recoverable Transactions and Insolvent Trading



### Offences

A summary of offences under the Corporations Act that may be identified by the administrator:

180	Failure by company officers to exercise a reasonable degree of care and diligence in the exercise of their powers and the discharge of their duties.
181	Failure to act in good faith.
182	Making improper use of their position as an officer or employee, to gain, directly or indirectly, an advantage.
183	Making improper use of information acquired by virtue of the officer's position.
184	Reckless or intentional dishonesty in failing to exercise duties in good faith for a proper purpose. Use of position or information dishonestly to gain advantage or cause detriment. This can be a criminal offence.
198G	Performing or exercising a function or power as an officer while a company is under administration.
206A	Contravening a court order against taking part in the management of a corporation.
206A, B	Taking part in the management of corporation while being an insolvent, for example, while bankrupt.
206A, B	Acting as a director or promoter or taking part in the management of a company within five years after conviction or imprisonment for various offences.
209(3)	Dishonest failure to observe requirements on making loans to directors or related companies.
254T	Paying dividends except out of profits.
286	Failure to keep proper accounting records.
312	Obstruction of an auditor.
314-7	Failure to comply with requirements for the preparation of financial statements.
437D(5)	Unauthorised dealing with company's property during administration.
438B(4)	Failure by directors to assist administrator, deliver records and provide information.
438C(5)	Failure to deliver up books and records to the administrator.
590	Failure to disclose property, concealed or removed property, concealed a debt due to the company, altered books of the company, fraudulently obtained credit on behalf of the company, material omission from Report as to Affairs or false representation to creditors.

### Recoverable Transactions

#### Preferences

A preference is a transaction, such as a payment by the company to a creditor, in which the creditor receiving the payment is preferred over the general body of creditors. The relevant period for the payment commences six months before the commencement of the liquidation. The company must have been insolvent at the time of the transaction, or become insolvent because of the transaction.

Where a creditor receives a preference, the payment is voidable as against a liquidator and is liable to be paid back to the liquidator subject to the creditor being able to successfully maintain any of the defences available to the creditor under the Corporations Act.

#### Uncommercial Transaction

An uncommercial transaction is one that it may be expected that a reasonable person in the company's circumstances would not have entered into, having regard to:

- the benefit or detriment to the company;
- the respective benefits to other parties; and,
- any other relevant matter.

To be voidable, an uncommercial transaction must have occurred during the two years before the liquidation. However, if a related entity is a party to the transaction, the period is four years and if the intention of the transaction is to defeat creditors, the period is ten years.

The company must have been insolvent at the time of the transaction, or become insolvent because of the transaction.

### **Unfair Loan**

A loan is unfair if and only if the interest was extortionate when the loan was made or has since become extortionate. There is no time limit on unfair loans – they only must be entered into before the winding up began.

### **Arrangements to avoid employee entitlements**

If an employee suffers loss because a person (including a director) enters into an arrangement or transaction to avoid the payment of employee entitlements, the liquidator or the employee may seek to recover compensation from that person. It will only be necessary to satisfy the court that there was a breach on the balance of probabilities. There is no time limit on when the transaction occurred.

### **Unreasonable payments to directors**

Liquidators have the power to reclaim '*unreasonable payments*' made to directors by companies prior to liquidation. The provision relates to payments made to or on behalf of a director or close associate of a director. The transaction must have been unreasonable, and have been entered into during the 4 years leading up to a company's liquidation, regardless of its solvency at the time the transaction occurred.

### **Voidable charges**

Certain charges over company property are voidable by a liquidator:

- circulating security interest created within six months of the liquidation, unless it secures a subsequent advance;
- unregistered security interests;
- security interests in favour of related parties who attempt to enforce the security within six months of its creation.

## **Insolvent trading**

In the following circumstances, directors may be personally liable for insolvent trading by the company:

- a person is a director at the time a company incurs a debt;
- the company is insolvent at the time of incurring the debt or becomes insolvent because of incurring the debt;
- at the time the debt was incurred, there were reasonable grounds to suspect that the company was insolvent;
- the director was aware such grounds for suspicion existed; and
- a reasonable person in a like position would have been so aware.

The law provides that the liquidator, and in certain circumstances the creditor who suffered the loss, may recover from the director, an amount equal to the loss or damage suffered. Similar provisions exist to pursue holding companies for debts incurred by their subsidiaries.

A defence is available under the law where the director can establish:

- there were reasonable grounds to expect that the company was solvent and they did so expect;
- they did not take part in management for illness or some other good reason; or
- they took all reasonable steps to prevent the company incurring the debt.

The proceeds of any recovery for insolvent trading by a liquidator are available for distribution to the unsecured creditors before the secured creditors.

**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.