



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

### **Pacific HVAC Engineering Pty Ltd (Administrators Appointed) ACN 087 430 715 ("Pacific HVAC Engineering" or "the Company")**

The *Corporations Act* and professional standards require the Practitioners appointed to an insolvent entity to make a declaration as to:

- A. their independence generally;
- B. relationships, including
  - a) the circumstances of the appointment;
  - b) any relationships with the company and others within the previous 24 months;
  - c) any prior professional services for the company within the previous 24 months;
  - d) that there are no other relationships to declare; and
- C. any indemnities given, or up-front payments made, to the Practitioner.

This declaration is made in respect of ourselves, our partners, the firm McGrathNicol, which for the purpose of this declaration includes the McGrathNicol Partnership, the McGrathNicol Advisory Partnership and McGrathNicol Services Pty Ltd.

#### **A. Independence**

We, Robert Smith and Matthew Caddy of the firm McGrathNicol have undertaken a proper assessment of the risks to our independence prior to accepting the appointment as administrators of Pacific HVAC Engineering in accordance with the law and applicable professional standards. This assessment identified no real or potential risks to our independence. We are not aware of any reasons that would prevent us from accepting this appointment.

#### **B. Declaration of Relationships**

##### **(i) *Circumstances of appointment***

This appointment was referred to us by Antony Lynch of M&A Partners, who met the directors of Pacific HVAC Engineering to discuss potential equity solutions to the Company's financial challenges. McGrathNicol has a professional relationship with M&A Partners although there have been no referrals between the respective firms for more than ten years.

We believe this introduction and referral does not result in a conflict of interest or duty because:

- it is entirely unconditional;
- there was no formal engagement of M&A Partners to assist the Company;
- no prior engagements have been undertaken by McGrathNicol in relation to Pacific HVAC Engineering; and
- referrals within the business community are commonplace and do not generally present any threat to independence to act.



Rob Smith and David Barnaby (another McGrathNicol partner) attended one meeting in person with the two directors of Pacific HVAC Engineering at the time (Sudevan Nallathamby and Shane Wallis) and Mr Lynch on 24 June 2019 to discuss the financial position of Pacific HVAC Engineering and available insolvency options should they be required.

Subsequent to this meeting, Mr Wallis spoke with Rob Smith by phone around four times between 24 June 2019 and 16 July 2019 to ask questions about any potential insolvency process should it be required.

On 23 July 2019 Mr Wallis contacted Rob Smith by phone to discuss the likelihood of an imminent insolvency appointment. Between 23 July 2019 and 25 July 2019 various phone conversations were held between Rob Smith and both Mr Nallathamby and Mr Wallis to discuss:

- the current financial position of the Company;
- the status of the Company's business sale and equity raise process; and
- planning in the event voluntary administrators were appointed.

McGrathNicol did not receive any remuneration from Pacific HVAC Engineering or render any fee account for these discussions. Mr Nallathamby contacted Rob Smith on 26 July 2019 to advise that the directors of Pacific HVAC Engineering had resolved to place the company into voluntary administration with immediate effect.

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

- It is recognised by the Courts and the CoPP that pre-appointment advice on the insolvency process and available options is necessary and does not amount to an impediment to accepting an appointment; and
- The nature of the limited scope advice provided, which involved receiving a background briefing and providing factual information about insolvency processes was such that it would not be subject to review and challenge during the course of the administration. Nor would the advice influence our ability to be able to fully comply with the statutory and fiduciary obligations associated with the administration in an objective and impartial manner.

We have provided no other information or advice to Pacific HVAC Engineering, Mr Nallathamby or Mr Wallis prior to our appointment beyond that outlined in this DIRRI.

**(ii) *Relevant Relationships (excluding professional services to the Insolvent)***

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

Name	Nature of relationship	Reasons
<b>Westpac (WBC)</b>	<p>WBC holds a charge on the whole or substantially the whole of the property of the Company.</p> <p>McGrathNicol undertakes corporate recovery and advisory work from time to time on instructions from WBC.</p>	<p>We believe this relationship does not result in a conflict of interest or duty because:</p> <ul style="list-style-type: none"><li>▪ Each professional engagement undertaken for WBC in relation to a particular entity or group of entities is conducted on an entirely separate basis which has no bearing on this appointment.</li><li>▪ These engagements are only commenced after full regard is given to potential conflicts of interest in relation to all interested stakeholders.</li><li>▪ McGrathNicol has not undertaken an engagement for WBC in respect of Pacific HVAC Engineering.</li><li>▪ Given these factors, our independence in acting as voluntary administrator of Pacific HVAC Engineering has not been affected.</li></ul>



**(iii) *Prior professional services to the Insolvent***

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

**(iv) *No other relevant relationships to disclose***

There are no other known relevant relationships, including personal, business and professional relationships, from the previous 24 months with Pacific HVAC Engineering, an associate of Pacific HVAC Engineering, a former insolvency practitioner appointed to Pacific HVAC Engineering or any person or entity that has security over the whole or substantially the whole of Pacific HVAC Engineering's property that should be disclosed.

**C. Indemnities and Up-front Payments**

We have not been indemnified in relation to this administration, other than any indemnities that we may be entitled to under statute. We have not received any other indemnities or upfront payments that should be disclosed.

Dated: 29 July 2019

.....  
**Rob Smith**

.....  
**Matthew Caddy**

Note:

- 1 If the circumstances change or new information is identified, we are required under the Corporations Act 2001 and the ARITA Code of Professional Practice to update this Declaration and provide a copy to creditors with our next communication, as well as table a copy of any replacement Declaration at the next meeting of the insolvent's creditors.
- 2 Any relationships, indemnities or up-front payments disclosed in the DIRRI must not be such that the Practitioner is no longer independent. The purpose of components B and C of the DIRRI is to disclose relationships that, while they do not result in the Practitioner having a conflict of interest or duty, ensure that creditors are aware of those relationships and understand why the Practitioner nevertheless remains independent.

Please note that the presentation of the above information is in accordance with the standard format suggested by ARITA.