



Frequently Asked Questions

1 What is a Voluntary Administration?

Voluntary Administration (**VA**) provides a statutory framework for a company to re-organise, restructure and refinance its business and affairs.

A voluntary administrator is the person appointed to facilitate the VA.

The objective of the VA process is to enable an insolvent company, or a company that in the opinion of the directors may become insolvent, to be administered in a way that:

- maximises the opportunity for all or part of the business to continue; or
- if it is not possible for the business to continue, results in a better return to creditors and members than an immediate liquidation.

The outcome of a VA is often a Deed of Company Arrangement (**DOCA**) or the liquidation of the company (if no DOCA is proposed or accepted by creditors).

2 What is a Deed of Company Arrangement (DOCA)?

Broadly speaking, a DOCA is a binding agreement between a company and its creditors (e.g. financiers, landlords, suppliers, government agencies, employees etc.) recording an agreed modification of rights between them. This can include an arrangement to restructure the business, usually by agreement to repay outstanding debt at a lower amount and/or over time.

For a DOCA to be binding on the company and its creditors, it must be voted on and accepted by a majority of the company's creditors (in terms of the number of creditors and the aggregate value of those creditors' debts).

A deed administrator is the person appointed to facilitate the DOCA.

3 What is a Section 444GA application?

Under section 444GA of the Corporations Act 2001, a deed administrator may transfer shares in a company if it has obtained:

- the written consent of the owner of the shares; or
- the leave of the court.

An application under section 444GA of the Corporations Act 2001 is a court application requesting that the court grant the above-mentioned leave (**444GA Application**). The court grants this leave by issuing 'orders' stating that the shares can be transferred (**444GA Orders**).

Shareholders, creditors, the Australian Securities and Investment Commission (**ASIC**) and other interested parties are entitled to oppose the issuance of 444GA Orders by the court.

The court will only grant leave in respect of a 444GA Application if it is satisfied that the transfer of the shares would not unfairly prejudice the interests of shareholders. In other words, the court will only make 444GA Orders allowing for the transfer of shares for nil consideration if the shares have no value.

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4 **Why is a 444GA Application being made now?**

On 4 December 2020, Mr Robert Kirman and Mr Robert Brauer were appointed voluntary administrators of Alita.

At a meeting of creditors which was convened on 23 December 2020, Alita's sole creditor, Austroid Corporation, voted in favour of a resolution for Alita to execute a DOCA, and appoint Mr Robert Kirman and Mr Robert Brauer as deed administrators (**Deed Administrators**). The DOCA was executed with Austroid Corporation, the proponent of the DOCA, on the same day (**DOCA Proponent**).

It is a condition of the DOCA that the Deed Administrators obtain 444GA Orders.

5 **What are the terms of the DOCA agreed with the DOCA Proponent?**

The terms of the DOCA are set out in detail at section 5.2.1 of the Deed Administrators' report to creditors dated 16 December 2020.

Please follow this link to access the report: www.mcgrathnicol.com/creditors/alita-group/

It is highly recommended that you regularly review this website as the Deed Administrators intend for the website to be updated regularly with additional relevant documents, including any orders made by the court, as the 444GA Application progresses.

6 **Who is the DOCA Proponent?**

The proponent of the DOCA is Austroid Corporation, a company incorporated in Nevada, United States of America (with business identification number NV20201866500)

7 **What Court is the 444GA Application being made in?**

The 444GA Application has been brought by the Deed Administrators in the Supreme Court of Western Australia (**Court**) (Proceeding COR 112 of 2021).

8 **Was a Section 444GA Application previously made for Alita Resources Limited ("Alita") in 2019?**

Yes.

On 28 August 2019, Richard Tucker and John Bumbak of KordaMentha were appointed voluntary administrators of Alita.

At a meeting of creditors which was convened on 17 December 2019, creditors voted in favour of a resolution for Alita to execute a DOCA and appoint Richard Tucker and John Bumbak as deed administrators. This DOCA was executed with China Hydrogen Energy Limited (**CHEL**), the proponent of the DOCA (**First DOCA**).

A condition of the First DOCA was that the deed administrators obtain 444GA Orders.

An application was made to the court in this regard on 19 December 2019.



On 6 March 2020, the court granted the 444GA Orders.

On 24 November 2020, CHEL made an application to the court to amend the First DOCA. The effect of the amendment was that the transfer of Alita's shares was no longer a condition precedent to completion of the First DOCA. This amendment allowed the First DOCA to complete.

On 2 December 2020, Austroid Corporation purchased CHEL's secured debt, becoming Alita's secured creditor.

On 3 December 2020, the First DOCA effectuated after each of the conditions precedent were satisfied. All priority and unsecured claims were extinguished bringing about the retirement of Richard Tucker and John Bumbak as deed administrators. As Austroid Corporation was a secured creditor, this had the effect of leaving Austroid Corporation as Alita's sole creditor.

On 4 December 2020, Austroid Corporation enforced its security and appointed Mr Robert Kirman and Mr Robert Brauer as voluntary administrators of Alita.

9 **Can I enter an appearance to the Court to be heard at the final hearing in relation to the 444GA Application? If so, how?**

Yes.

The Deed Administrators have commenced Proceeding COR 112 of 2021 in the Supreme Court of Western Australia.

To the extent that a shareholder or their legal representative wishes to take an active role in the proceeding, they will need to file a Form 4 Notice of Appearance in the form prescribed by the Supreme Court of Western Australia by no later than 4 August 2021. If a shareholder does not file an appearance by that date the court may determine that they cannot participate in the proceeding. Further information on how to appear can be obtained by contacting Alita@mcgrathnicol.com.

The notice of appearance must identify the shareholder's address, service details (including any legal representative) and whether they intend to appear at any hearings.

All notices of appearance must be filed with the Supreme Court of Western Australia and served on the Deed Administrators at c/- Clayton Utz, Level 27, 250 St Georges Terrace, Perth WA 6000.

Shareholders should obtain independent legal advice for further advice regarding their rights as a shareholder.

10 **Can I make an objection regarding the 444GA Application, without making an appearance in Court? If so, how?**

Yes.

If you do not wish to appear in court, but have concerns or objections in relation to the 444GA Application or Proceeding COR 112 of 2021, you may provide the Deed Administrators with your views.

The Deed Administrators will notify the court of any submissions received from shareholders. If you wish for the Deed Administrators to provide your views to the court in this manner, please do so in writing by emailing alita@mcgrathnicol.com no later than **28 July 2021** so that the Deed Administrators have time to notify the court. Your submissions should include details of the substantive basis for your concerns or objections.



Shareholders should obtain independent legal advice for further advice regarding their rights as a shareholder.

11 **How do I obtain a copy of the Explanatory Statement and Experts Report?**

The Deed Administrators intend for a copy of the Explanatory Statement and Expert Report to be available on McGrathNicol's website on or before 20 August 2021. The final hearing, at which the Court will determine whether to make the Section 444GA orders is scheduled for 1 September 2021. Shareholders can obtain a copy of the Explanatory Statement and Expert Report by clicking on the link here www.mcgrathnicol.com/creditors/alita-group/

It is highly recommended that you regularly review this website as the Deed Administrators intend for the website to be updated regularly with additional relevant documents, including any orders made by the court, as the 444GA Application progresses.

12 **What happens if I do nothing?**

If you take no action and the 444GA Orders are granted, your shares in Alita will be transferred to the DOCA Proponent for no consideration. You will no longer own those shares.

If you take no action and the 444GA Orders are not granted, the condition to the completion of the DOCA will not be satisfied, and it is likely that Alita will be placed into liquidation.

13 **What happens if 444GA Orders are not granted (i.e. the 444GA Application is unsuccessful)?**

If the 444GA Orders are not granted (i.e. the 444GA Application is unsuccessful) the condition to the completion of the DOCA will not be satisfied, and it is likely that Alita will be placed into liquidation.

14 **What happens if the Court approves the 444GA Application?**

If the Section 444GA application is successful, the court will grant 444GA Orders allowing the Deed Administrators to transfer 100% of the shares in Alita to Austroid Corporation, the DOCA Proponent.

15 **What does this mean for me?**

The court will only make 444GA Orders if it is satisfied that the shares in Alita have no value.

If the Section 444GA Orders are granted, shareholders will receive no consideration for the transfer of their shares and the shareholders will cease to be shareholders of Alita.