Protocol Annex 4

STANDARD CONDITIONS FOR

INDIVIDUAL VOLUNTARY ARRANGEMENTS

Produced by the

IVA FORUM

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TABLE OF CONTENTS FOR STANDARD CONDITIONS

PART I: INTERPRETATION **Page**

1 Definitions 4
2 The Conditions 5

PART II: THE START, EFFECT AND DURATION OF THE ARRANGEMENT

3 When the arrangement will start 6
4 The nature and effect of the arrangement 6
5 How long the arrangement will last 7
6 Completing the arrangement 7
7 Substantial compliance 8

PART III: THE DEBTOR'S DUTIES AND OBLIGATIONS

8 Your duties in relation to the Supervisor 9

PART IV: BREACH OR NON-COMPLIANCE BY THE DEBTOR

9(1) If you breach the arrangement 12
9(2) If you fail to comply 13
9(3) Procedure following breach 13
9(4) Remedy of breach 13
9(5) Failure to remedy breach 14
9(6) Termination on debtor's request 14

PART V: THE SUPERVISOR'S FUNCTIONS, POWERS ETC

10 Supervisor's duties 15
11 Removing the Supervisor from office 16
12 When the Supervisor leaves office 16
13 Vacancy in the office of Supervisor 17

PART VI: ARRANGEMENT ASSETS

14 After acquired assets 18
15 Holding arrangement assets in trust 18
16 In the event of your death 18

Page

PART VII DIVIDENDS AND CLAIMS

17 Dividends and claims 19

PART VIII: CREDITORS WHO DO NOT HAVE NOTICE

18 Creditors who do not have notice 20

PART IX: MEETING OF CREDITORS

19 Power to call or requisition meetings of creditors 21

PART X: CONDITIONS WHERE TAX AUTHORITIES ARE CREDITORS

20 HM Revenue & Customs ("HMRC") claims 22
21 Income beginning after approval 22
22 Post-approval statutory returns and payments 22
23 Overdue accounts and returns 22
24 Funds to be paid to Supervisor 22
25 Restriction on payment of dividend 23
26 Set-off of repayments 23
27 No response from HMRC 23

PART XI: MISCELLANEOUS PROVISIONS

28 Tax liabilities arising on realisations 24
29 Invalidity or illegality 24
30 Joint liabilities 24
31 Surplus 24

PART I

INTERPRETATION

1. Definitions

In the arrangement, except where the context requires a different meaning:

(a) "**the Act**" means the Insolvency Act 1986 as amended;

(b) "**the arrangement**" means the proposal and the conditions read together;

(c) "**you**" or "**the debtor**" means the person who makes the proposal;

(d) "**dividend**" means a distribution to creditors;

(e) "**excluded assets**" are those assets that are excluded from a debtor's estate in bankruptcy and any other assets identified in the proposal as being excluded from the arrangement;

(f) "**after acquired assets**" means any asset, windfall or inheritance with a value of more than £500, other than excluded assets that you acquire or receive between the date the arrangement starts and the date it ends or is completed, if this asset could have been an asset of the arrangement had it belonged to or been vested in you at the start of the arrangement;

(g) "**the effective date**" is the date when the arrangement is approved at a creditors meeting to consider the arrangement;

(h) "**the proposal**" is the annexed document with modifications and documents incorporated, and is a proposal under Part VIII of the Act;

(i) "**the Rules**" means the Insolvency Rules 1986 (as amended);

(j) an "**unsecured creditor**" is any creditor, except a secured creditor, who is your creditor for any reason that originated or occurred on or before the time and date of approval of the arrangement;

(k) A “**secured creditor**” is any creditor who holds security in accordance with Section 383 of the Act.

(l) any term of gender (like ‘he’, ‘she’ or ‘it’) includes any gender.

2. The conditions

The conditions are part of the arrangement. If any ambiguity or conflict arises between the conditions and the proposal and any modifications to it, then the proposal (whether modified or not) will prevail.

PART II

THE START, EFFECT AND DURATION OF THE ARRANGEMENT

3. When the arrangement will start

The arrangement will begin when it is approved by the creditors under the Act and Rules. This is its effective date.

4. The nature and effect of the arrangement

4(1) The arrangement is a proposal under Part VIII of the Act for a scheme to manage your affairs, or in full and final settlement of your debts.

4(2) The arrangement may be interpreted as bringing about a settlement or satisfying a debt owed by someone other than you only if the debt is owed jointly by you and the proposal states that it does so, and if the creditor agrees. Otherwise, the provisions of paragraph 30 will apply.

4(3) After the arrangement has begun, no creditor may, in respect of any debt to which the arrangement applies:

(i) take any action against your property or person;

(ii) start or continue any action or other legal proceeding against you.

4(4) Nothing in these conditions affects the following rights in any way:

(i) the right of any secured creditor to enforce their security, unless they agree;

(ii) the right of the Supervisor or any creditor to present a bankruptcy petition under section 264(1)(c) of the Act if you fail to keep to the arrangement;

(iii) the right of any creditor to bring or continue legal proceedings against you and to obtain a judgment against you for the full amount of their debt for the sole purpose of making a claim against your insurer under the Third Party (Rights Against Insurers) Act 1930.

5. How long the arrangement will last

5(1) Unless extended under these conditions, the arrangement will continue until the end of the period stated in the proposal.

5(2) The Supervisor may, if he/she thinks fit for the purposes of fulfilling the arrangement, extend the arrangement by sending a notice saying so ("an extension notice") to you and to all creditors. This may be done either once or twice: first for up to 6 months and next for up to 3 months.

5(3) The Supervisor must send any extension notice at least 7 days before the arrangement is due to expire and must state the reasons for the extension.

5(4) Where an extension notice is sent, the arrangement will continue for the period stated in the notice, or for the maximum allowable period for that extension (6 months for a first extension and 3 months for a second extension), whichever is shorter. The extension will start on the date immediately after the day the arrangement would have expired.

5(5) If the Supervisor has called a creditors meeting for a date after the arrangement would otherwise have expired, then the arrangement will be extended to the date of that meeting and of any adjournment to the meeting.

5(6) Where the individual has failed to disclose exceptional income, the term of the IVA may be extended by up to a maximum of 6 months to recover any sums due, without any modification being required.

5(7) Any extension for a period longer than allowed under paragraph 5(2) must be approved by a variation.

6. Completing the arrangement

6(1) When the arrangement ends, and if you have complied with your obligations under the arrangement, the Supervisor will issue a certificate ("the completion certificate") stating that you have fully complied with it.

6(2) Except as set out in paragraph 4(4), when the Supervisor has issued a completion certificate, you will be released from all debts that are subject to the arrangement.

7. Substantial compliance

7(1) The Supervisor may, if he/she thinks fit, issue a completion certificate even if you have not complied with all your obligations under the arrangement, provided that you have:

(i) made all payments required of you under the arrangement;

(ii) fully explained any breach of the arrangement, as required by the Supervisor;

(iii) paid the Supervisor any sum that he/she has reasonably requested to compensate the creditors for any reduction in dividend caused by your breach of the arrangement.

7(2) If the Supervisor issues a completion certificate under paragraph 7(1), the arrangement will be treated as fully complied with and you will be released from all your debts as provided in paragraph 6(2).

PART III

THE DEBTOR'S DUTIES AND OBLIGATIONS

8. Your duties in relation to the Supervisor

8(1) While the arrangement is in force, you promise as the Supervisor reasonably requires to carry out his/her functions and duties under the arrangement to:

(i) give the Supervisor such information about your assets, liabilities and other affairs;

(ii) meet the Supervisor, his/her agents, representatives or nominees at such times;

(iii) keep the Supervisor informed of your current residential address and employment details; and

(iv) do all such other things as the Supervisor reasonably requires.

8(2) You promise to give the Supervisor whatever type of accounts or details (or both) of your income and expenditure relating to your affairs, for whatever date and period, as the Supervisor may reasonably require.

8(3) If at any time during the arrangement you acquire or are left with "after-acquired assets" as described in paragraph 14, or where your income increases and you have to make contributions out of income, you must as soon as reasonably possible tell the Supervisor about the asset or increase in income.

8(4) You must get the Supervisor's written consent before you sell, charge or otherwise dispose of any interest you may have in any asset subject to the arrangement.

8(5) You must inform the Supervisor at any time that you are in receipt of additional income. You must come to a satisfactory arrangement with the Supervisor as to what increased amount should be paid into the arrangement. If you do not do so you could become liable as detailed in paragraph 10(9).

8(6) You must not obtain any further credit greater than £500 without the prior written approval of your Supervisor, except for public utilities and to refinance any balloon payment at the end of a vehicle Hire Purchase Agreement. If you do obtain credit of more than £500 without the consent of your Supervisor, this will constitute a breach of your arrangement. This clause does not apply to any remortgage or release of equity in your property for the purpose of the arrangement.

8(7) Where you are employed, you must report any overtime, bonus, commission or similar to the Supervisor if not included in the original surplus calculation, where the sum exceeds 10% of your normal take home pay. Disclosure to the Supervisor must be made within 14 days of receipt and 50% of the amount (over and above the 10%) shall be paid to the Supervisor within 14 days of the disclosure. Failure to disclose any such overtime, bonus, commission or similar by you will be considered a breach of the IVA and the Supervisor shall notify the creditors in the next annual report with proposals for how the breach is to be rectified.

8(8) You will be allowed a payment break of up to 6 months once during the term of the IVA without any variation being required at the discretion of the Supervisor. The term of the IVA will be extended by the length of the payment break so that you will make the same number of contributions as agreed in the original proposal. An agreed payment break will not constitute a breach. Where the Supervisor agrees a payment break, the creditors should be notified within 3 months from the date of the agreement. At the conclusion of an agreed payment break the Supervisor shall if necessary review the position and consult with creditors where appropriate.

8(9) In addition, if you are faced with an emergency item of expenditure or an unforeseen reduction in income and you are unable to pay either the full amount due or anything at all, then, subject to the discretion of your Supervisor, you may be allowed to take a payment holiday without a variation being required. This is subject to three conditions, all of which have to be met:

(i) Full details of your inability to pay must be demonstrated to the Supervisor's satisfaction;

(ii) No more than the equivalent of 3 months payments can be agreed to be missed in this way; and

(iii) The duration of the IVA will be extended by the same number of months for which payments have been suspended to recover the sums due, unless you have otherwise made good the shortfall.

Any missed payments agreed by your Supervisor in this way should not be counted in the arrears of contributions which would be regarded as a breach of the IVA and details of this will be included in the annual report.

PART IV

BREACH OR NON-COMPLIANCE BY THE DEBTOR

If you breach the arrangement

9(1) You will be regarded as in breach of the arrangement if:

(i) you have at any time arrears of contributions equivalent to 3 months or more of the contributions proposed in the proposal (subject to the exceptions in paragraphs 8(8) and 8(9)). If you are in breach in this way but later repay all or some of the arrears, you will be in breach again if the same level of arrears recurs;

(ii) your debts and liabilities exceed by 15% or more the figure you have estimated for such debts and liabilities for the purposes of the proposal (and if such breach occurs the Supervisor will – without affecting any other alternative available to them – ask the creditors what they wish to do in the context of the arrangement overall);

(iii) information that was false or misleading in any significant detail or contains any significant omissions:

a) was contained in any statement of affairs or other document that you supplied under Part VIII of the Act to any person; or

b) was otherwise made available by you to creditors at or in connection with any meeting of creditors held, or any resolution taken, concerning the arrangement;

(iv) you fail to do anything that the Supervisor may for the purposes of the arrangement reasonably ask of you; or

(v) you fail to comply with any other of your obligations under the arrangement.

If you fail to comply

9(2) Non-compliance by the debtor with the arrangement

If you do not comply with your obligations after the Supervisor has given you written notice specifying how long you have to do so, then the Supervisor may end the arrangement at his/her discretion. The Supervisor must report to the creditors when issuing the annual report under Rule 5.31 of the Rules, or earlier if he/she thinks appropriate, if any of the following occurs:

(i) The Supervisor becomes aware that a bankruptcy petition has been served against you while the arrangement is in force.

(ii) You fall more than 3 months into arrears with contributions from income (subject to the exceptions in paragraphs 8(8) and 8(9)), or fail to pay the additional sums due in respect of overtime etc.

(iii) You are in breach of any obligation about the realisation of assets or after-acquired property.

(iv) You fail to comply with any other of your obligations set out in the proposal.

Procedure following breach

9(3) Notice of breach

If, at any time, the Supervisor thinks that you are in breach of the arrangement, then, unless you correct the breach immediately, the Supervisor will as soon as possible send you a notice ("Notice of Breach") identifying the breach. This will require you within 1-3 months (at the Supervisor's discretion) of receiving the notice:

(i) to remedy the breach if it can be remedied; and

(ii) if the Supervisor thinks fit, to fully explain the breach.

9(4) Remedy of breach

If, within 1 - 3 months as referred to in sub-paragraph 9(3), you

(i) remedy your breach of the arrangement; and

(ii) if so required in the Notice of Breach, fully explain the breach,

then the Supervisor will take no further action against you, except to report the breach to the creditors when he/she next sends an annual report to creditors on the progress and effectiveness of the arrangement, or on the next convenient occasion, if earlier.

9(5) Failure to remedy breach

If you have not acted as specified in sub-paragraph 9(4) within the time allowed, the Supervisor must report within 28 days to creditors and either issue a Certificate of Termination or if the Supervisor feels it appropriate seek creditor views (voting to be as set out in the Rules) to do one of the following:

(i) vary the terms of the arrangement; or

(ii) issue a certificate ("Certificate of Termination") ending the arrangement because of the breach; or

(iii) present a petition for your bankruptcy.

9(6) Termination on debtor's request

The Supervisor may issue a Certificate of Termination if you request this in writing, but may delay doing so until the Supervisor's administration of the estate has been completed.

PART V

THE SUPERVISOR'S FUNCTIONS, POWERS ETC

Supervisors duties

10(1) The Supervisor must supervise your fulfilment of your obligations under the arrangement and administer the arrangement.

10(2) The Supervisor must lodge all funds held for the purpose of the arrangement in a UK bank or building society account. He/she may place on deposit any funds he/she holds that in his/her opinion are not needed for the immediate purposes of the arrangement. The Supervisor will arrange for income tax to be paid at source from any interest earned on the funds he/she holds.

10(3) The Supervisor must pay you (the debtor) any funds he/she holds representing dividend cheques that are still un-cashed 6 months after payment of the final dividend.

10(4) The Supervisor will have the power to do such things as are necessary or helpful to implement this proposal (without limiting the powers available to the Supervisor in law).

10(5) The Supervisor will not be personally liable for any liabilities incurred by you or otherwise.

10(6) Completion or termination (or both) of the arrangement will not affect the Supervisor's power to carry out such functions and to exercise such powers as are necessary for him/her to fulfil his/her duties, obligations and responsibilities under the arrangement, Act and Rules and to resolve any matters that arise during the arrangement.

10(7) The Supervisor will have no duty to perform any act or carry out any function except those specified in the arrangement, Act or Rules.

10(8) The Supervisor will have discretion to allow your contribution to reduce by no more than 15% (relative to the original proposal or last agreed variation) of the forecast monthly contribution. If the reduction is more than the 15% against the

forecasted monthly contribution, the Supervisor must convene a meeting of creditors to request a variation in the monthly contribution.

10(9) The Supervisor on failure to reach agreement with you in respect of your obligation under paragraph 8(5) will immediately issue a "certificate of non-compliance" unless the Supervisor believes a further creditors meeting should be held. Any such creditors meeting should be convened within 30 days of the Supervisor's review of your annual financial circumstances.

10(10) The Supervisor is not required to retain any funds for the petition of the debtor's bankruptcy.

10(11) The Supervisor is required to review the debtor's income and expenditure once in every 12 months by reference to latest form P60, pay slips and proof of increase in any expenditure. The debtor will be required to increase his monthly contribution by 50% of any net surplus one month following such review.

10(12) The arrangement shall terminate when the Supervisor issues a Certificate of Termination.

11. Removing the Supervisor from office

11(1) If a good reason is given, the Supervisor may be removed from office by the court or by a resolution of a creditors meeting.

11(2) A notice served by a creditor on the Supervisor under paragraph 19.2 (notice requisitioning meeting) for the purpose of convening a creditors meeting to remove the Supervisor from office must set out the reasons for the removal.

11(3) The notice sent out by the Supervisor to creditors convening such a meeting must state the reasons for seeking to remove the Supervisor. It must be accompanied by a report on the Supervisor's administration of the arrangement, including an up-to-date summary of receipts and payments.

12. When the Supervisor leaves office

12(1) If the creditors resolve to accept the resignation of a Supervisor or to remove a Supervisor from office, and another person will take over the office of Supervisor

for the time being, then the Supervisor who is resigning or being removed must leave office immediately.

12(2) If the creditors resolve to accept a Supervisor's resignation or to remove a Supervisor from office, and no other person takes over the office of Supervisor for the time being, then that resignation or removal will not take effect. In that case the Supervisor must not leave office until a creditors meeting or the court appoints a replacement Supervisor.

12(3) The Supervisor must leave office immediately if he/she ceases to be currently qualified to act as Supervisor.

12(4) A Supervisor who, for any reason, leaves office must, as soon as practicable, give the new Supervisor or Supervisors all books, records and papers about the arrangement and the Supervisor's administration of it, and all assets of which he/she is a trustee under the arrangement.

12(5) Former Supervisors must help the new Supervisor of the arrangement from time to time in whatever way he/she may reasonably require to find out what happened while the former Supervisor held office.

13. Vacancy in the office of Supervisor

13(1) If, for any reason, there is a vacancy in the office of Supervisor, that vacancy may be filled by someone appointed at a meeting of creditors or by the court.

13(2) If no Supervisor is in office, such a meeting of creditors may be convened by the debtor, any creditor, any person who was in the same firm, LLP or company as the Supervisor immediately before the vacancy occurred, or by the former Supervisor's authorising body.

13(3) If a meeting of creditors is called when no Supervisor is in office, the person who convened the meeting must act as chairman of that meeting.

PART VI

ARRANGEMENT ASSETS

14. After-acquired assets

14(1) Subject to the following sub-paragraph, the Supervisor may claim as an asset of the arrangement any after-acquired assets. Any such asset will be subject to and be an asset of the arrangement.

14(2) After-acquired assets must only be sold or realised to the extent necessary to repay the creditors in full with any interest they are entitled to under the arrangement.

15. Holding arrangement assets in trust

Whilst the arrangement is in force:

15(1) You must hold in trust for the purposes of the arrangement any property in your possession, custody or control that is an asset of the arrangement, until it is realised (if required) in accordance with the arrangement.

15(2) The Supervisor must hold in trust for the purposes of the arrangement any property in his/her possession, custody or control that is an asset of the arrangement.

16. In the event of your death

16(1) Should you die during the term of the arrangement property constituting an asset of the arrangement in your or the Supervisor's possession, custody or control shall be held upon trust for the purposes of the arrangement until it is realised.

PART VII

DIVIDENDS AND CLAIMS

Dividends and claims

17(1) The Supervisor may accept for dividend purposes claims submitted by creditors as at the effective date. If any creditor does not make any claim in writing within 4 months after the effective date or by the date of the first dividend (whichever is the later), then that creditor may only participate in dividend payments to the extent set out in paragraph 17.3 below.

17(2) The Supervisor has the discretion to admit claims of £1,000 or less, or claims submitted that do not exceed 110% of the amount stated by the debtor in the proposal, without the need for additional verification.

17(3) If a creditor makes a late claim, the Supervisor will allow this for dividend purposes, subject to the requirement to adjudicate the authenticity and value of the claim, and the creditor will be entitled to participate and to receive their full share of dividends (insofar as funds are available), but is not entitled to disturb a distribution made prior to the submission of the claim[1].

17(4) The Supervisor may ask for any further details or documents he/she think necessary to establish the amount due to any person claiming to be a creditor.

17(5) The claims of secured creditors, foreign currency debts, debts payable at a future time, and interest on debts will be dealt with in accordance with the Bankruptcy Rules.

17(6) Where any creditor agrees, for whatever reason, to make a repayment to the debtor during the continuance of the arrangement, then that payment shall be used solely in reduction of that creditor's claim in the first instance. If such repayment results in the creditor's claim being entirely extinguished (after the application of set off) any surplus will be treated as an after acquired asset and offered to the Supervisor for the benefit of the arrangement.

[1] This paragraph contradicts paragraph 13.5 of the Protocol. The paragraph here should be read as the most up-to-date position for Protocol purposes. The Protocol will be updated to reflect the changes in due course.

PART VIII

CREDITORS WHO DO NOT HAVE NOTICE

Creditors who do not have notice

18. This voluntary arrangement will be binding on any creditor whose claim has been omitted from it, but who would have been entitled to vote if they had been notified of the creditors meeting called to approve it.

On discovering the claim of such a creditor, the Supervisor must send immediate notice requiring them to give details of their claim as at the effective date.

Four months after sending the above notice, the Supervisor may use his/her discretion to exclude such a creditor from dividend if the creditor has not by then made the claim in writing.

PART IX

MEETINGS OF CREDITORS

19. Power to call or requisition meetings of creditors

19(1) The Supervisor may, if he or she wishes, summon and conduct meetings of creditors for any purpose connected with the arrangement in accordance with the Act and the Rules.

19(2) If requested in writing by you, or by creditors with at least one-quarter in value of the total amount of debts subject to the arrangement, the Supervisor must call a creditors meeting within 21 days from receiving such request, unless the court decides he/she need not do so.

19(3) You or the Supervisor may propose variations to the proposal after it has been approved and these may be considered at a creditors meeting convened by the Supervisor for this purpose in accordance with paragraph 19.5.

19(4) The Supervisor is entitled to make a reasonable charge in connection with any submitted variation.

19(5) The Supervisor must give at least 28 days' notice of the meeting to the creditors. Rule 5.23(1) of the Rules will apply to the creditors meeting in deciding whether the necessary majority has been obtained. If the necessary majority is obtained at the meeting, then the variation(s) or modification(s) will bind every person who is subject to the arrangement. Rule 12A.21 of the Rules will apply (quorum at meetings). Rules 5.18 to 5.22 and 5.24 will also apply (conduct of meeting, voting rights and adjournment).

PART X

CONDITIONS WHERE TAX AUTHORITIES ARE CREDITORS

20. HM Revenue & Customs ("HMRC") claims

20(1) The HMRC provisional claim in the arrangement will include (i) any tax credit overpayment; (ii) self-assessment payments on account due for the tax year in which the arrangement is approved; (iii) PAYE/SC/NIC deductions due to the date of approval; plus (iv) any other earlier unpaid liabilities.

20(2) The HMRC final claim in the arrangement will also include the self-assessment balancing adjustment for the tax year in which the arrangement is approved, due with the self-assessment return on 31 January of the following year.

21. Income beginning after approval

You will be responsible for payment of self-assessment/NIC on any source of income that begins after the date of approval of the arrangement.

22. Post-approval statutory returns and payments

All statutory returns and payments due to HMRC following approval must be provided on or before the date they fall due.

23. Overdue accounts and returns

You must send all statutory accounts and returns overdue at the date of the creditors' meeting to HMRC within 3 months of the approval date, with any other information or explanations required.

24. Funds to be paid to Supervisor

From the date the arrangement is approved to the 5 April ending that tax year, you must pay your monthly charge for income tax/NIC, as it appears in the income and expenditure statement, to the Supervisor for the benefit of the arrangement.

25. Restriction on payment of dividend

No non-preferential dividend will be made until (i) HMRC has received a self-assessment return for the tax year in which the arrangement is approved; or (ii) a VAT or other levy or duty return due to HMRC to the date of the meeting has been filed; or (iii) an HMRC determination or assessment has been made and the Supervisor has admitted HMRC's final claims.

26. Set-off of repayments

While the arrangement is in force, you must offset against HMRC's claims in the arrangement any tax/excise/VAT or other repayments that become due to you from HMRC for periods for which claims may arise under the arrangement. Similarly, you must offset any remaining surplus against the claims of other government departments before offering them to the Supervisor for the benefit of the arrangement. You must offset any repayments for any later periods against any post-approval debts due to HMRC. Any remaining surplus will then be treated as a windfall and offered to the supervisor for the benefit of the arrangement.

27. No response from HMRC

If the debtor was a non-trading debtor and has not traded during the tax year in which the IVA was agreed and if there are no outstanding returns due to HM Revenue and Customs (HMRC) and no contact has been made by HMRC with the Supervisor within 4 months after the effective date, the Supervisor has the discretion to disregard the requirement in paragraph 25 of the standard conditions to not make a non-preferential dividend before the Supervisor has admitted the HMRC final claim. If the Supervisor commences payment of dividends, notification should be sent to HMRC and funds may be retained to pay an equivalent dividend to HMRC based on the amount shown in the statement of affairs.

PART XI

MISCELLANEOUS PROVISIONS

28. Tax liabilities arising on realisations

If you have taxation liabilities arising on the sale or other realisation of any asset subject to the arrangement, you must meet them out of the proceeds of that sale, as far as those proceeds are sufficient.

29. Invalidity or illegality

If any part of the arrangement is found to be contrary to the Act or Rules, illegal, invalid, or contrary to public policy, this will not affect the validity of the rest of the arrangement; and the part of the arrangement in question must be interpreted accordingly.

30. Joint liabilities

The rights of any creditor who has a joint and individual claim against a third party will not be affected by this proposal.

31 Surplus

All amounts paid into the arrangement are intended to be used to pay dividends to unsecured creditors (after payment of the costs of the arrangement). However, if at the end of the arrangement up to £200 remains in the scheme, the Supervisor may choose to return this to you as surplus.