

**STANDARD CONDITIONS FOR  
FULL AND FINAL  
INDIVIDUAL VOLUNTARY ARRANGEMENTS**

**Version 1 Effective from May 2017**

## TABLE OF CONTENTS FOR STANDARD CONDITIONS

	<b>Page</b>
<b>PART I: INTERPRETATION</b>	
1 Definitions	4
2 The Conditions	4
<b>PART II: THE START, EFFECT AND DURATION OF THE ARRANGEMENT</b>	
3 When the arrangement will start	4
4 The nature and effect of the arrangement	5
5 How long the arrangement will last	5
6 Completing the arrangement	6
7 Substantial compliance	6
<b>PART III: YOUR DUTIES AND OBLIGATIONS</b>	
8 Your duties in relation to the Supervisor	6
<b>PART IV: BREACH OR NON-COMPLIANCE BY THE DEBTOR</b>	
9(1) If you breach the arrangement	7
9(2) If you fail to comply	7
9(3) Procedure following breach	7
9(4) Remedy of breach	8
9(5) Failure to remedy breach	8
9(6) Termination on your request	8
<b>PART V: THE SUPERVISOR'S FUNCTIONS, POWERS ETC</b>	
10 Supervisor's duties	8
11 Removing the Supervisor from office	9
12 When the Supervisor leaves office	9
13 Vacancy in the office of Supervisor	9
<b>PART VI: ARRANGEMENT ASSETS</b>	
14 Holding arrangement assets in trust	10
15 In the event of your death	10
<b>PART VII DIVIDENDS AND CLAIMS</b>	
16 Dividends and claims	10
<b>PART VIII: CREDITORS WHO DO NOT HAVE NOTICE</b>	
17 Creditors who do not have notice	11
<b>PART IX: MEETING OF CREDITORS</b>	
18 Power to call or requisition meetings of creditors	11

<b>PART X: CONDITIONS WHERE TAX AUTHORITIES ARE CREDITORS</b>		<b>Page</b>
19	HM Revenue & Customs ("HMRC") claims	12
20	Income beginning after approval	12
21	Post-approval statutory returns and payments	12
22	Overdue accounts and returns	12
23	Restriction on payment of dividend	12
24	Set-off of repayments	12
25	No response from HMRC	12
 <b>PART XI: MISCELLANEOUS PROVISIONS</b>		
26	Tax liabilities arising on realisations	13
27	Invalidity or illegality	13
28	Joint liabilities	13

**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) **"property"** has the meaning given to it in Section 436 of the Act;
- (f) **"excluded assets"** are those assets that are excluded from an estate in bankruptcy and any other assets identified in the proposal as being excluded from the arrangement; **"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 (England and Wales) Rules 2016 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) **"the Supervisor"** is the person or persons for the time being appointed to supervise the implementation of the arrangement;
- (m) any term of gender (like 'he', 'she' or 'it') includes any gender.

**2. The conditions**

The conditions are an integral part of the arrangement. In the event of any ambiguity or conflict between the conditions and the proposal and any modifications to it, then the proposal (as modified) shall 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 28 will apply.
- 4(3)** In the event that the Arrangement does not provide guidance to the Supervisor as to what action he/she should take in any given situation, the Supervisor shall apply the provisions of the Act and Rules in so far as they relate to bankruptcy with necessary modifications.
- 4(4)** 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; or
  - (ii) start or continue any action or other legal proceeding against you.
- 4(5)** 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. The notice must include details of the period the Arrangement has been extended by and confirm the revised duration of the Arrangement.
- 5(3)** The Supervisor must include details of any extension notice in the next report to creditors and must state the reasons for the extension. Where the Arrangement is in its final year any extension notice must be sent at least 7 days before the arrangement is due to expire.
- 5(4)** Where an extension notice is sent, the arrangement will continue for the period stated in the notice. 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)** Any extension for a period longer than 12 months 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(5), 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**

### **YOUR 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 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(3)** 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.

**PART IV**  
**BREACH OR NON-COMPLIANCE**

**If you breach the arrangement**

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

- (i) 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);
- (ii) 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;
- (iii) you fail to do anything that the Supervisor may for the purposes of the arrangement reasonably ask of you; or
- (iv) you fail to comply with any other of your obligations under the arrangement.

**If you fail to comply**

**9(2) Non-compliance 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 8.28 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) The full and final payment is not received into the arrangement by the date it is due.
- (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 your 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**

#### **10. 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 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(4)** The Supervisor will not be personally liable for any liabilities incurred by you or otherwise.
- 10(5)** 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(6)** 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(7)** The Supervisor is not required to retain any funds for the petition of your bankruptcy.



**10(8)** 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 who is owed at least one quarter of the value of debts on the Supervisor 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 you, 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 chair of that meeting.

## PART VI

### ARRANGEMENT ASSETS

#### 14. Holding arrangement assets in trust

Whilst the arrangement is in force:

- 14(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.
- 14(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.

#### 15. In the event of your death

- 15(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

#### 16. Dividends and claims

- 16(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 16.3 below.
- 16(2) The Supervisor has the discretion to admit claims of £1,000 or less without a claim form, or claims submitted that do not exceed 110% of the amount stated by you in the proposal, without the need for additional verification.
- 16(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. The creditor will be entitled to participate and to receive their full share of dividends including those paid to date (insofar as funds are or become available), but is not entitled to disturb a distribution made prior to the submission of the late claim.
- 16(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.
- 16(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.

#### Unclaimed and returned dividends

- 16(6) Where a final dividend remains unclaimed 6 months after that distribution has been made the Supervisor shall pay those funds to those creditors whose final dividend has been claimed. Where redistribution of these funds is cost prohibitive (for example the cost of making payment is in excess of the funds in hand) the remaining funds will be dealt with in accordance with 16(8).

- 16(7)** Where an interim dividend remains unclaimed or is returned to the Supervisor during the term of the Arrangement the Supervisor shall take reasonable steps to allocate that payment (reasonable steps will not extend beyond providing the creditor with details of your name or previous known name, address and any known previous address, date of birth, details of the account reference held and or a copy of the proof of debt submitted in respect of that claim). Where it is not possible to allocate the unclaimed or returned dividend then the Supervisor may discount the proof of debt received and distribute the funds to those creditors whose dividends have been claimed. A creditor whose claim has been discounted under these provisions is entitled to resubmit a claim that will be dealt with in accordance with 16(3).
- 16(8)** The Supervisor must pay you any funds he/she holds representing dividends that are still uncashed/unclaimed/returned 6 months after redistributing funds in accordance with 16(6). Once this has been paid to you the creditors have no further claim to these funds.
- 16(9)** 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 a surplus. In the event this remains unclaimed 6 months after the payment is issued or is returned, the Supervisor can utilise the funds to locate and make payment to you or can make a donation to a registered charity of the Supervisor's choice.

## **PART VIII**

### **CREDITORS WHO DO NOT HAVE NOTICE**

#### **17. Creditors who do not have notice**

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**

#### **18. Power to call or requisition meetings of creditors**

- 18(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.
- 18(2)** With your consent, 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 18.4.
- 18(3)** The Supervisor is entitled to make a reasonable charge in connection with any submitted variation.
- 18(4)** The Supervisor must give at least 28 days' notice of the meeting to the creditors. Rule 15.34 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 15.2 of the Rules will apply (quorum at meetings). Part 15 of the Rules will apply insofar as they relate to IVAs.

## PART X

### CONDITIONS WHERE TAX AUTHORITIES ARE CREDITORS

#### 19. HM Revenue & Customs ("HMRC") claims

- 19(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.
- 19(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.

#### 20. 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.

#### 21. 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.

#### 22. 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.

#### 23. 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.

#### 24. Set-off of repayments

Any repayment due to you from HMRC relating to a period before the arrangement was approved shall be applied firstly against the HMRC claim in the arrangement. Any surplus will be repaid to you.

Any repayment due to you from HMRC relating to a period after the arrangement was approved shall be applied against other sums owed to HMRC for the post arrangement period. Any surplus will be repaid to you.

#### 25. No response from HMRC

If you were not self-employed and have 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 24 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

**26. 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.

**27. 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.

**28. 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.