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SCHEDULE 4

Article 22(2)

REQUIREMENTS FOR A VALID AGREEMENT TO SURRENDER A BUSINESS TENANCY

- 1. The following are the requirements referred to in section 38A(4)(b) of the Act.
- 2. Subject to paragraph 4, the notice referred to in section 38A(4)(a) of the Act must be served on the tenant not less than 14 days before the tenant enters into the agreement under section 38A(2) of the Act, or (if earlier) becomes contractually bound to do so.
- 3. If the requirement in paragraph 2 is met, the tenant or a person duly authorised by him to do so, must, before the tenant enters into the agreement under section 38A(2) of the Act, or (if earlier) becomes contractually bound to do so, make a declaration in the form, or substantially in the form, set out in paragraph 6.
- 4. If the requirement in paragraph 2 is not met, the notice referred to in section 38A(4)(a) of the Act must be served on the tenant before the tenant enters into the agreement under section 38A(2) of the Act, or (if earlier) becomes contractually bound to do so, and the tenant, or a person duly authorised by him to do so, must before that time make a statutory declaration in the form, or substantially in the form, set out in paragraph 7.
- 5. A reference to the notice and, where paragraph 3 applies, the declaration or, where paragraph 4 applies, the statutory declaration must be contained in or endorsed on the instrument creating the agreement under section 38A(2).

6. The form of declaration referred to in paragraph 3 is as follows:—

I(name of declarant) of(address) declare that—

1. I have/ (name of tenant) has a tenancy of premises at (address of premises) for a term commencing on

2. I/The tenant propose(s) to enter into an agreement with..... (name of landlord) to surrender the tenancy on a date or in circumstances specified in the agreement.

3. The landlord has not less than 14 days before I/the tenant enter(s) into the agreement referred to in paragraph 2 above, or (if earlier) become(s) contractually bound to do so, served on me/the tenant a notice in the form, or substantially in the form, set out in Schedule 3 to Regulatory Reform (Business Tenancies) (England and Wales) Order 2003. The form of notice set out in that Schedule is reproduced below.

4. I have/The tenant has read the notice referred to in paragraph 3 above and accept(s) the consequences of entering into the agreement referred to in paragraph 2 above.

5. (as appropriate) I am duly authorised by the tenant to make this declaration.

DECLARED this.....day of.....

To:

..... [name and address of tenant]

From:

..... [Name and address of landlord]

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IMPORTANT NOTICE FOR TENANT

Do not commit yourself to any agreement to surrender your lease unless you have read this message carefully and discussed it with a professional adviser.

Normally, you have the right to renew your lease when it expires. By committing yourself to an agreement to surrender, **you will be giving up this important statutory right.**

- You will **not** be able to continue occupying the premises beyond the date provided for under the agreement for surrender, **unless** the landlord chooses to offer you a further term (in which case you would lose the right to ask the court to determine the new rent). You will need to leave the premises.
- You will be unable to claim compensation for the loss of your premises, unless the lease or agreement for surrender gives you this right.

A qualified surveyor, lawyer or accountant would be able to offer you professional advice on your options.

You do not have to commit yourself to the agreement to surrender your lease unless you want to.

If you receive this notice at least 14 days before committing yourself to the agreement to surrender, you will need to sign a simple declaration that you have received this notice and have accepted its consequences, before signing the agreement to surrender.

But if you do not receive at least 14 days notice, you will need to sign a "statutory" declaration. To do so, you will need to visit an independent solicitor (or someone else empowered to administer oaths).

Unless there is a special reason for committing yourself to the agreement to surrender sooner, you may want to ask the landlord to let you have at least 14 days to consider whether you wish to give up your statutory rights. If you then decided to go ahead with the agreement to end your lease, you would only need to make a simple declaration, and so you would not need to make a separate visit to an independent solicitor.

7. The form of statutory declaration referred to in paragraph 4 is as follows:—

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I(name of declarant) of(address)
do solemnly and sincerely declare that—

1. I have/ (name of tenant) has a tenancy of premises
at (address of premises)
for a term commencing on

2. I/The tenant propose(s) to enter into an agreement with.....
(name of landlord) to surrender the tenancy on a date or in circumstances specified in the agreement.

3. The landlord has served on me/the tenant a notice in the form, or substantially in the form, set out
in Schedule 3 to the Regulatory Reform (Business Tenancies) (England and Wales) Order 2003. The form
of notice set out in that Schedule is reproduced below.

4. I have/The tenant has read the notice referred to in paragraph 3 above and accept(s) the
consequences of entering into the agreement referred to in paragraph 2 above.

5. (as appropriate) I am duly authorised by the tenant to make this declaration.

To:

.....
.....
..... [name and address of tenant]

From:

.....
.....
..... [Name and address of landlord]

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AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1835

DECLARED at this day of

Before me (*signature of person before whom declaration is made*)

A commissioner for oaths or A solicitor empowered to administer oaths or (*as appropriate*)