

The Insolvency Act 1986

**Administrator's progress report**

Name of Company Agricultural Contract & Marketing Company Limited	Company number 03007999
In the Leeds County Court [full name of court]	Court case number 374 of 2015

(a) Insert full name(s) and address(es) of the administrator(s)

I/ We (a) Bob Maxwell of Begbies Traynor (Central) LLP, Fourth Floor, Toronto Square, Toronto Street, Leeds, LS1 2HJ and Rob Sadler of Begbies Traynor (Central) LLP, Fourth Floor, Toronto Square, Toronto Street, Leeds, LS1 2HJ

administrator(s) of the above company attach a progress report for the period

(b) Insert dates


from

to

(b) 27 October 2015

(b) 23 February 2016

Signed

  
 Joint Administrator

Dated

26/2/16

**Contact Details:**

You do not have to give any contact information in the box opposite but if you do, it will help Companies House to contact you if there is a query on the form. The contact information that you give will be visible to searchers of the public record.

Begbies Traynor (Central) LLP	
Fourth Floor Toronto Square, Toronto Street Leeds LS1 2HJ	
	Tel Number 0113 244 0044
Fax Number 0113 244 5820	DX Number

When you have completed and signed this form please send it to the Registrar of Companies at  
 Companies House, Crown Way, Cardiff, CF14 3UZ      DX 33059 Cardiff



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COMPANIES HOUSE

TUESDAY

Bob Maxwell and Rob Sadler were appointed joint administrators on 27 April 2015

The affairs, business and property of the Company are being managed by the joint administrators, who act as the Company's agents and without personal liability

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## **Agricultural Contract & Marketing Company Limited (In Administration)**

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Progress report of the joint administrators pursuant to Rule 2.47 and 2.112 of The Insolvency Rules 1986

Period: 27 October 2015 to 23 February 2016

## Important Notice

This progress report has been produced by the administrators solely to comply with their statutory duty to report to creditors on the progress of the administration. The report is private and confidential and may not be relied upon, referred to, reproduced or quoted from, in whole or in part, by creditors for any purpose other than this report to them, or by any other person for any purpose whatsoever.

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# 1. INTERPRETATION

<u>Expression</u>	<u>Meaning</u>
"the Company"	Agricultural Contract & Marketing Company Limited (In Administration)
"the administration"	The appointment of administrators under Schedule B1 to the Insolvency Act 1986 on 27 April 2015
"the administrators", "we", "our", "us"	Bob Maxwell of Begbies Traynor (Central) LLP, Fourth Floor, Toronto Square, Toronto Street, Leeds, LS1 2HJ and Rob Sadler of Begbies Traynor (Central) LLP, Fourth Floor, Toronto Square, Toronto Street, Leeds, LS1 2HJ
"the Act"	The Insolvency Act 1986 (as amended)
"the Rules"	The Insolvency Rules 1986 (as amended)
"secured creditor" and "unsecured creditor"	Secured creditor, in relation to a company, means a creditor of the company who holds in respect of his debt a security over property of the company, and "unsecured creditor" is to be read accordingly (Section 248(1)(a) of the Act)
"security"	(i) In relation to England and Wales, any mortgage, charge, lien or other security (Section 248(1)(b)(i) of the Act), and  (ii) In relation to Scotland, any security (whether heritable or moveable), any floating charge and any right of lien or preference and any right of retention (other than a right of compensation or set off) (Section 248(1)(b)(ii) of the Act)
"preferential creditor"	Any creditor of the Company whose claim is preferential within Sections 386, 387 and Schedule 6 to the Act

## 2. STATUTORY INFORMATION

Name of Company	Agricultural Contract & Marketing Company Limited
Trading name(s)	ACMC
Date of Incorporation	10 January 1995
Company registered number	03007999
Company registered office	Fourth Floor, Toronto Square, Toronto Street, Leeds, LS1 2HJ

## 3. DETAILS OF APPOINTMENT OF ADMINISTRATORS

Names of the administrators	Bob Maxwell, a Licensed Insolvency Practitioner of Begbies Traynor (Central) LLP, Fourth Floor, Toronto Square, Toronto Street, Leeds, LS1 2HJ and Rob Sadler, a Licensed Insolvency Practitioner of ,4th Floor, Toronto Square, Toronto Street, Leeds, LS1 2HJ
Date of appointment	27 April 2015
Court	Leeds County Court
Court Case Number	374 of 2015
Persons making appointment	The Directors of the Company
Acts of the administrators	The administrators act as officers of the court and as agents of the Company without personal liability. Any act required or authorised under any enactment to be done by an administrator may be done by any one or more persons holding the office of administrator from time to time.
EC Regulation on Insolvency Proceedings	The EC Regulation on Insolvency Proceedings (Council Regulation (EC) No 1346/2000) applies to these proceedings which are 'main proceedings' within the meaning of Article 3 of the Regulation.
Extensions of the administration period	There have been no previous extensions to the administration period.

## 4 PROGRESS DURING THE PERIOD

Attached at Appendix 1 is our abstract of receipts and payments for the period from 27 October 2015 to 23 February 2016 together with a cumulative account from 27 April 2015 to 23 February 2016

The Joint Administrators traded the Company for approximately three months to enable a smooth wind down of the business and to ensure the welfare of livestock. The majority of realisations made and costs paid, following implementation of the trading strategy, have been set out in my previous reports

At the start of this period, there were only three known assets left to pursue: residual book debts, a potential claim for mis-selling of interest rate hedging products and an investment in a Cambodian subsidiary

### **Book Debts**

The Company had an outstanding book debt ledger of £98,689 on appointment. We initially estimated that the collectable element of this ledger was £69,145. However, to date we have realised £92,896

We instructed Addlestone Keane Limited ("AKL") to assist us with collection of the residual balance. They have been responsible for collecting £11,874 of the £20,867 received in the period. AKL have been paid 20% of the realisations made plus nominal disbursements, being £2,453 in total

We do not expect any further realisations from this source

### **Interest Rate Hedging Products**

The Company had historically been sold interest rate hedging products ("IRHP") by both Lloyds Banking Group ("Lloyds") and The Royal Bank of Scotland plc ("RBS"). Prior to our appointment, the Company had begun to explore the potential for compensation in relation to the mis-selling of these products

By the time we were appointed, the Company had made no progress in respect of any potential claim against Lloyds and any action had become statute barred by time. We are, therefore, unable to pursue this any further

In relation to the claim against RBS the time period in which to make a claim would have expired at the end of February 2016. Whilst we have begun investigating the claim, we have not yet been able to ascertain whether it is in the Company's interests to pursue it. In light of this, a decision was made to issue a protective claim with the Courts. A Court fee of £10,000 was paid in this regard and the Company now has until 22 May 2016 to formalise the claim. We have engaged IRHP specialists, AHV Associates LLP to assist us with this. Their fee for assessing and establishing the claim will be £7,500

Gosschalks Solicitors were instructed to assist with the making of the protective claim. Their fees for this work are expected to be £1,650 plus VAT

### **Foreign Investments**

At the date of our appointment, the Company held two significant shareholdings in Cambodian and Chinese entities. These investments, at cost, were £299,246 and £250,000 respectively

On our behalf, the Company's director, Mr Stephen Curtis, went to the Far East to negotiate a sale of these minority shareholdings to the major shareholders. The shares in the Chinese investment were sold for £17,985. Mr Curtis also managed to recover an outstanding royalty payment of £3,879 for the majority shareholder in the Cambodian investment

The majority shareholder in the Cambodian entity has also agreed to buy out the Company's minority shareholding. Various documentation is being filed with the Cambodian authorities to affect the share transfer. The price for the shares is still to be negotiated

As part of the attempts to sell the shares in the Cambodian entity, we have required input for Gosschalks Solicitors. Their costs for work done totals £670 plus VAT. Further amounts may be incurred if additional legal input is required and the costs will be settled in due course.

### **Trading**

Whilst trading ceased in July 2015, there have been a number of final receipts and payments during the period.

A receipt of £976 has been received from a trading debtor and a utility refund of £2,295 has also been received. Outstanding invoices for fuel were received and £3,455 was paid.

We consider that this now finalises trading, with a profit of £162,270 having been made.

We have instructed our accounts, Sagars LLP, to submit tax returns for the trading period but it is anticipated that tax in the region of £30,000 may be payable. We are, however, looking at the Company's pre-appointment tax affairs to determine whether there are any brought forward losses which may mitigate this estimated liability.

Sagars LLP estimate that their costs for assisting with this work will be in the region of £2,000 plus VAT based on time costs incurred.

## **5. ESTIMATED OUTCOME FOR CREDITORS**

### **Secured creditor**

Royal Bank of Scotland plc ("RBS") holds a fixed and floating charge debenture dated 14 January 2010. The total indebtedness outstanding to RBS at the date of our appointment was £1.33million.

In addition to this, RBS has outstanding lending of £273,263 to the Company's 100% subsidiary, ACMC (UK) Limited. RBS benefits from cross guarantees which allow it to add its exposure to ACMC (UK) Limited to that of the Company. ACMC (UK) Limited is now being dissolved, with no return to RBS expected. Therefore, RBS's total claim against the Company is £1.60m.

An interim distribution of £829,256 has been made to the Bank under its fixed charge. At present it is anticipated that a further fixed charge distribution of approximately £18,000 will be made to the RBS. This may increase if realisations can be made in relation to the Cambodian shareholding.

A further distribution of to RBS may be payable under its floating charge.

Even if a distribution is available under the floating charge, it is expected that RBS will suffer a significant shortfall on its lending as a whole. This is subject to potential collections from ongoing claims for the mis-selling of interest rate hedging products (discussed further in Section 9).

### **Preferential creditors**

At the outset of the Administration, it was anticipated that there would be no preferential distribution. However, due to a positive move in asset realisations it now appears likely that preferential creditors will be paid in full. Claims from preferential creditors, which are yet to be agreed, total £26,796. Subject to no unforeseen increase in costs, we will proceed to agree and pay preferential claims.

### Prescribed Part for unsecured creditors pursuant to Section 176A of the Act

Section 176A of the Act provides that, where the company has created a floating charge on or after 15 September 2003, the administrator must make a prescribed part of the Company's net property available for the unsecured creditors and not distribute it to the floating charge holder except in so far as it exceeds the amount required for the satisfaction of unsecured debts. Net property means the amount which would, were it not for this provision, be available to floating charge holders out of floating charge assets (i.e. after accounting for preferential debts and the costs of realising the floating charge assets). The prescribed part of the Company's net property is calculated by reference to a sliding scale as follows:

- ☐ 50% of the first £10,000 of net property,
- ☐ 20% of net property thereafter,
- ☐ Up to a maximum amount to be made available of £600,000

An administrator will not be required to set aside the prescribed part of net property if

- ☐ the net property is less than £10,000 and the administrator thinks that the cost of distributing the prescribed part would be disproportionate to the benefit, (Section 176A(3)) or
- ☐ the administrator applies to the court for an order on the grounds that the cost of distributing the prescribed part would be disproportionate to the benefit and the court orders that the provision shall not apply (Section 176A(5))

We have estimated, to the best of our knowledge and belief, the Company's net property, as defined in Section 176A(6) of the Act, to be £166,824 and the prescribed part of the Company's net property to be £33,368

Subject to final agreement of the claims, it is intended that we will distribute an amount to the unsecured creditors in the Administration. This is possible as a result of changes made to the Insolvency Act 1986 on 26 May 2015 which allows for unsecured distributions within an Administration process.

### Unsecured creditors

Based upon realisations to date and estimated future realisations there will be insufficient funds available to enable a dividend to be paid to the unsecured creditor other than by virtue of the prescribed part. However, this may change if a successful claim can be brought in relation to the mis-selling of interest rate hedging products, details of which are provided in Section 9.

### Effect of administration on limitation periods under the Limitation Act 1980

As we have previously confirmed, the Limitation Act 1980 continues to apply to all debts due from the Company. Case law indicates that where a company is in administration, time does not stop running for limitation purposes pursuant to the Limitation Act 1980. If you have any concerns in relation to your claim against the Company becoming time-barred during the course of the administration, we strongly recommend that you seek independent legal advice on the options available to you to prevent this.

## 6 PRE-ADMINISTRATION COSTS

The following amounts in respect of unpaid pre-administration costs were approved by the secured creditor in accordance with Rule 2.67A of the Rules:

Description	Name of recipient	Net amount £	VAT £	Gross amount £
Our fees in relation to the Work	Begbies Traynor	7,327.50	1,465.50	8,793.00
<b>TOTAL PRE-ADMINISTRATION COSTS</b>		<b>7,327.50</b>	<b>1,465.50</b>	<b>8,793.00</b>



## 7. THE ADMINISTRATORS' REMUNERATION & DISBURSEMENTS

Our remuneration has been fixed by the secured creditor on 9 July 2015 in accordance with Rule 2 106(5A) of the Rules, by reference to the time properly given by us (as administrators) and the various grades of our staff calculated at the prevailing hourly charge out rates of Begbies Traynor (Central) LLP in attending to matters arising in the administration. We are also authorised to draw disbursements, including disbursements for services provided by our firm (defined as category 2 disbursements in Statement of Insolvency Practice 9), in accordance with our firm's policy, details of which accompanied the Statement of proposals for achieving the purpose of administration and which are attached at Appendix 2 of this report.

Our time costs for the period from 27 October 2015 to 23 February 2016 amount to £26,270 which represents 84.4 hours at an average rate of £311 per hour.

The following further information in relation to our time costs and disbursements is set out at Appendix 2:

- ❑ Begbies Traynor (Central) LLP's policy for re-charging disbursements
- ❑ Begbies Traynor (Central) LLP's charge-out rates
- ❑ Narrative summary of time costs incurred
- ❑ Table of time spent and charge-out value for the period 27 October 2015 to 23 February 2016
- ❑ Table of time spent and charge-out value for the period 27 April 2015 to 23 February 2016

In addition to the table of time spent by us and our staff in attending to matters arising in the administration for the period covered by this progress report, a cumulative table of time spent and charge out value for the period from 27 April 2015 to 23 February 2016 and a description of the work undertaken by us and our staff since our appointment (contained in the narrative summary of time costs incurred) are also attached at Appendix 2.

To date, we have drawn the total sum of £Nil on account of our remuneration, against total time costs of £211,844.50 incurred since the date of our appointment. In addition to the time costs information disclosed at Appendix 2 for the period of this report, our previous progress report contained details of the time costs we had incurred as at the date of that report.

Category 1 disbursements (disbursements which do not require approval for payment) incurred in this period total £130. This includes a bonding premium of £105 and postage charge of £25. There are further Category 1 disbursements which were incurred in prior periods. To date, none of the Category 1 disbursements incurred have been paid.

A Category 2 disbursement (which requires approval to be paid) has also been incurred in the period. This is a mileage charge of £27. This brings total mileage incurred (and unpaid) to £4,705. Further details of this and other Category 2 disbursements incurred and paid in earlier periods is provided at Appendix 2.

A copy of 'A Creditors Guide to Administrators' Fees (E&W) 2015' which provides guidance on creditors' rights on how to approve and monitor an Administrator's remuneration and on how the remuneration is set can be obtained online at [www.begbies-traynor.com/creditorsguides](http://www.begbies-traynor.com/creditorsguides). Alternatively, if you require a hard copy of the Guide, please contact our office and we will arrange to send you a copy.

## 8. ADMINISTRATORS' EXPENSES

A statement of the expenses incurred by us during the period of this progress report is attached at Appendix 3. A cumulative statement of expenses also appears at Appendix 3 which details the expenses incurred since the date of our appointment.

## 9. ASSETS THAT REMAIN TO BE REALISED

As set out above, the Company's shareholding in its Cambodian subsidiary and a potential claim against RBS for mis-selling of an IRHP are the only known assets left to collect

## 10. OTHER RELEVANT INFORMATION

### Report on Directors conduct

As detailed in our statement of proposals, we have a duty to submit a report to the Department for Business, Innovation and Skills on the conduct of the directors. We have complied with their duties in this respect

## 11. CREDITORS' RIGHTS

### Right to request further information

Pursuant to Rule 2.48A of the Rules, within 21 days of the receipt of this report a secured creditor, or an unsecured creditor with the concurrence of at least 5% in value of the unsecured creditors, including that creditor, (or an unsecured creditor with less than 5% in value of the unsecured creditors, but with the permission of the court), may request in writing that the administrators provide further information about their remuneration or expenses (other than pre-administration costs) which have been detailed in this progress report

### Right to make an application to court

Pursuant to Rule 2.109 of the Rules, any secured creditor or an unsecured creditor with the concurrence of at least 10% in value of the unsecured creditors including that creditor (or any unsecured creditors with less than 10% in value of the unsecured creditors, but with the permission of the court), may within 8 weeks of receipt of this progress report make an application to court on the grounds that the remuneration charged or the expenses incurred by the administrators as set out in this progress report are excessive or, in relation to the basis fixed for the administrators' remuneration, inappropriate


## 12. CONCLUSION

Paragraph 76 of Schedule B1 to the Act provides that the appointment of an administrator shall cease to have effect at the end of the period of one year beginning with the date on which it takes effect. However, the administrator's term of office may be extended either by court order for a specified period or by consent of the creditors for a specified period not exceeding twelve months

In order to ensure that the objective of the administration is achieved and that we have fully discharged our duties as administrators, it is necessary to extend the period of the administration. Accordingly we seek creditors' consent to extend the period of the administration for 12 months following the anniversary of our appointment up to 26 April 2017

A form enabling you to record your vote on the extension of the administration accompanies this report. In the event that creditors' consent to extend the period, we will give notice of the extension to creditors.

We will report again in approximately six months time or at the conclusion of the administration, whichever is the sooner.

A handwritten signature in black ink, appearing to read 'R A H Maxwell', written in a cursive style.

**R A H Maxwell**  
Joint Administrator

Dated 25 February 2016

# ACCOUNT OF RECEIPTS AND PAYMENTS

Period 27 October 2015 to 23 February 2016 and cumulative from 27 April 2015 to 23 February 2016

## Trading Account

Statement of Affairs	From 27/10/2015 To 22/02/2016	From 27/04/2015 To 22/02/2016
<b>POST APPOINTMENT SALES</b>		
Sales	976 18	531 800 46
Contribution to Fuel Costs		95 83
	<u>976 18</u>	<u>531 896 29</u>
<b>PURCHASES</b>		
Fuel	3 454 50	5 732 39
If Support		750 00
Direct Labour		
Farm Consumables		1 936 59
Gew Out Costs		2 180 20
Rent		32 418 59
Photocopier lease payment		191 30
Utilities	(2,295 05)	11 846 72
ACMC (UK) Settlement		12 156 00
Telephone		895 30
Agents costs		3 029 20
Skip Hire		408 00
Transport		8 162 00
Bank Charges	20 00	300 00
PAYE/Ni		14 896 00
Lease/HIP Payments		3 562 62
Repairs & Maintenance		3 132 63
Fallen Stock		2 690 25
Insurance		8 743 48
Alarm Monitoring		280 00
Farm Machinery Running Costs		22 34
Council Tax		319 99
Duress Creditors		2 000 00
Feed		148 057 33
Wages & Salaries		79 177 00
Petty Cash		(106 81)
Skurry		5 272 50
Vets		7 796 95
Cull Costs		13 775 88
	<u>(1 179 45)</u>	<u>(369 626 45)</u>
<b>TRADING SURPLUS/(DEFICIT)</b>	<u><b>(203 27)</b></u>	<u><b>162 269 84</b></u>

# ACCOUNT OF RECEIPTS AND PAYMENTS

Period 27 October 2015 to 23 February 2016 and cumulative from 27 April 2015 to 23 February 2016

## Receipts & Payments Account

Statement of Affairs	From 27/10/2015 To 22/02/2016	From 27/04/2015 To 22/02/2016
686 000 00		
SECURED ASSETS		
Freehold Land & Property		466 642 00
Property F&Ls		419 075 00
Goodwill		1 00
Intellectual Property & Contracts		3 00
Investments	17 985 18	17 985 18
	<u>17 985 18</u>	<u>903 706 18</u>
COSTS OF REALISATION		
Finance Settlement		5 750 00
Legal Fees		8 583 28
Agents/Valuers Fees		17 720 00
Costs of Realising Foreign Investment		10 880 53
Agents Disbursements		1 549 00
Property EPC		125 00
		<u>(44 607 82)</u>
SECURED CREDITORS		
Chargeholder (1)		829 256 01
		<u>(829 256 01)</u>
HIRE PURCHASE		
HP Asset (1)		
Finance Company(1)		
ASSET REALISATIONS		
Royalties		3 879 35
IT Systems		13 492 32
Plant & Machinery		77 948 00
Furniture & Equipment		
Motor Vehicles		
Stock		121 940 00
Book Debts	20 867 15	92 896 41
VAT Refund	-	6 509 28
Cash at Bank		0 59
Due to PPG	203 04	203 04
Cash in Hand		24 23
Bank Interest Gross	114 14	346 23
TRADING SURPLUS(DEFICIT)	(203 27)	162 269 84
Insurance Refund		3 197 13
Sundry Income		4 011 36
Contribution from buyer		1 05
Heat Grant		3 238 81
	<u>20,981 06</u>	<u>489 957 62</u>
COST OF REALISATIONS		
Agents Fees		23 665 20
Agents Disbursements		9 594 46
Legal Fees (1)		9 561 55
Legal Fees Debt Collection	2 452 84	2 452 84
IRHP Counl Fee	10 000 00	10 000 00
Statutory Advertising		84 60
	<u>(12 452 84)</u>	<u>(55 358 65)</u>
UNSECURED CREDITORS		
Trade Creditors		
DISTRIBUTIONS		
Ordinary Shareholders		
(12,005 756.00)	<u>26,513 40</u>	<u>484 441 32</u>
REPRESENTED BY		
Vat Receivable		690 90
Bank 1 Current		437 738 27
Bank 2 Current		19 835 85
Vat Control Account		6 176 30
		<u>484 441 32</u>

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## TIME COSTS AND DISBURSEMENTS

- a Begbies Traynor (Central) LLP's policy for re-charging expenses/disbursements,
- b Begbies Traynor (Central) LLP's charge-out rates,
- c Narrative summary of time costs incurred,
- d Table of time spent and charge-out value for the period from 27 October 2015 to 23 February 2016 , and
- e Cumulative table of time spent and charge-out value for the period from 27 April 2015 to 23 February 2016

## **BEGBIES TRAYNOR CHARGING POLICY**

### **INTRODUCTION**

This note applies where a licensed insolvency practitioner in the firm is acting as an office holder of an insolvent estate and seeks creditor approval to draw remuneration on the basis of the time properly spent in dealing with the case. It also applies where further information is to be provided to creditors regarding the office holder's fees following the passing of a resolution for the office holder to be remunerated on a time cost basis. Best practice guidance<sup>1</sup> requires that such information should be disclosed to those who are responsible for approving remuneration.

In addition, this note applies where creditor approval is sought to make a separate charge by way of expenses or disbursements to recover the cost of facilities provided by the firm. It also applies where payments are to be made to parties other than the firm, but in relation to which the office holder, the firm or any associate has an interest. Best practice guidance<sup>2</sup> indicates that such charges should be disclosed to those who are responsible for approving the office holder's remuneration, together with an explanation of how those charges are calculated.

### **OFFICE HOLDER'S FEES IN RESPECT OF THE ADMINISTRATION OF INSOLVENT ESTATES**

The office holder has overall responsibility for the administration of the estate. He/she will delegate tasks to members of staff. Such delegation assists the office holder as it allows him/her to deal with the more complex aspects of the case and ensures that work is being carried out at the appropriate level. There are various levels of staff that are employed by the office holder and these appear below.

The firm operates a time recording system which allows staff working on the case along with the office holder to allocate their time to the case. The time is recorded at the individual's hourly rate in force at that time which is detailed below.

### **EXPENSES INCURRED BY OFFICE HOLDERS IN RESPECT OF THE ADMINISTRATION OF INSOLVENT ESTATES**

Best practice guidance classifies expenses into two broad categories:

- *Category 1 disbursements (approval not required)* - specific expenditure that is directly related to the case and referable to an independent external supplier's invoice. All such items are charged to the case as they are incurred.
- *Category 2 disbursements (approval required)* - items of expenditure that are directly related to the case which include an element of shared or allocated cost and are based on a reasonable method of calculation, but which are not payable to an independent third party.

(A) The following items of expenditure are charged to the case (subject to approval):

- Internal meeting room usage for the purpose of statutory meetings of creditors is charged at the rate of £100 (London £150) per meeting,
- Car mileage is charged at the rate of 45 pence per mile,
- Storage of books and records (when not chargeable as a *Category 1 disbursement*) is charged on the basis that the number of standard archive boxes held in storage for a particular case bears to the total of all archive boxes for all cases in respect of the period for which the storage charge relates,

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<sup>1</sup> Statement of Insolvency Practice 9 (SIP 9) – Remuneration of insolvency office holders in England & Wales

<sup>2</sup> *Ibid* 1

*Expenses which should be treated as Category 2 disbursements (approval required)* – in addition to the two categories referred to above, best practice guidance indicates that where payments are to be made to outside parties in which the office holder or his firm or any associate has an interest, these should be treated as Category 2 disbursements

***Services provided by other entities within the Begbies Traynor group***

The following items of expenditure which relate to services provided by entities within the Begbies Traynor group, of which the office holder's firm is a member, are also to be charged to the case (subject to approval)

Instruction of Eddisons Commercial Limited to provide valuation advice in relation to the Company's plant and machinery and to provide assistance in the disposal of part of the Company's business. Their charges will be calculated on a time costs basis at the prevailing hourly rates for their various grades of staff which are currently as follows

Grade of staff	Charge-out rate (£ per hour)
Director	£275
Associate	£180
Surveyor	£120
Graduate	£100
Administration	£80
Porters	£35

In addition to the services detailed above, it may become necessary to instruct Eddisons Commercial Limited to provide additional services, not currently anticipated, during the course of the case. In such circumstances and to avoid the costs associated with seeking further approval, the charges for such services will be calculated on a time costs basis at the prevailing hourly rates set out above

Instruction of Eddisons Insurance Services Limited to provide insurance broking services and specifically open cover insurance for the insurable risks relating to the case. The cost of open cover insurance will vary during the course of the case depending upon the value of the assets and liability risks. The costs of insurance cover for will be dependent upon prevailing insurance market conditions and the ongoing insurable risks on the case. Eddisons Insurance Services Limited is not paid from the assets of the estate for the services it provides. In accordance with standard insurance industry practice, Eddisons Insurance Services Limited will receive payment of commission for the services it provides directly from the open cover insurer. The commission is calculated as a percentage of the insurance premiums payable and such percentage will depend upon the class or classes of assets being insured

- (B) The following items of expenditure will normally be treated as general office overheads and will not be charged to the case although a charge may be made where the precise cost to the case can be determined because the item satisfies the test of a *Category 1 disbursement*

- Telephone and facsimile
- Printing and photocopying
- Stationery



**Additional payments received by Eddisons Commercial Limited from purchasers where assets are disposed of by way of auction**

In addition to the charges of Eddisons Commercial Limited detailed above for providing the services to the office holder, where any machinery and business assets (other than freehold/leasehold property) are disposed of by way of auction, Eddisons Commercial Limited will also receive a payment from the purchaser, known as a buyer's premium, equivalent to 15% of the successful bid. Where any freehold/leasehold property is disposed of by way of auction, Eddisons Commercial Limited will also receive a payment from the purchaser, known as a buyer's administration fee, in the sum of £600. It is standard auction industry practice for a buyer's premium and buyer's administration fee to be charged. The buyer's premium and buyer's administration fee is paid by the purchaser of the assets and is not paid by the office holder from the assets of the estate.

**BEGBIES TRAYNOR CHARGE-OUT RATES**

Begbies Traynor is a national firm. The rates charged by the various grades of staff that may work on a case are set nationally, but vary to suit local market conditions. The rates applying to the Leeds office as at the date of this report are as follows:

Grade of staff	Charge-out rate (£ per hour)
	1 May 2011 – until further notice
Partner	395
Director	345
Senior Manager	310
Manager	265
Assistant Manager	205
Senior Administrator	175
Administrator	135
Trainee Administrator	110
Support	110

Time spent by support staff such as secretarial, administrative and cashiering staff is charged directly to cases. It is not carried as an overhead.

Time is recorded in 6 minute units.

## SUMMARY OF OFFICE HOLDERS' TIME COSTS

CASE NAME	Agricultural Contract & Marketing Company Limited – In Administration ("the Company")
CASE TYPE	Administration
OFFICE HOLDERS	Bob Maxwell and Rob Sadler
DATE OF APPOINTMENT	27 April 2015

### 1 CASE OVERVIEW

- 1.1 This overview and the time costs analysis attached is intended to provide sufficient information to enable the body responsible for the approval of the office holders' fees to consider the level of those fees in the context of the case

1.2 **Complexity of the case**

The Company operated from two freehold and three leasehold farms and at the date of appointment it also employed 34 staff. Due to the nature of the business, there was no other option available to the Administrators other than to continue trading. Trading a business in Administration has a number of inherent risks and difficulties.

The Company had close working relationships with a number of foreign entities. Continuation of these relationships was required in order to maximise realisations.

1.3 **Exceptional responsibilities**

Animal welfare is a key responsibility of the Administrators. This required careful planning and close work with the Company's vet. There were also environmental hazards such as management of the Company's slurry lagoons and solid animal waste.

1.4 **The office holders' effectiveness**

Trading exceeded expectations. An expected profit of £60k was surpassed by over £100k.

The Administrators sold part of the Company's business, which operated from two of the leasehold sites. The sale realised £110,000 and was recommended for acceptance by our agents. This sale maintained four jobs and mitigated potential creditor claims.

A sale of the Company's two freehold properties was achieved following consultation with the secured creditor, Royal Bank of Scotland plc ("RBS").

Debt collection has slightly exceeded expectations. Also a return from foreign investments has been achieved despite the potential challenges faced in this regard.

1.5 **Nature and value of property dealt with by the office holders'**

The Company's main assets were two freehold farms valued in the directors' statement of affairs at £909,373 and sold for £886,000.

The Company also held 10,000 pigs at the date of appointment with a book value of £1.59m. However, this figure is not reflective of likely realisations as the pigs can not all be sold in one go at a premium price. The costs of trading the business to sell the animals in a controlled manner eroded much of the value contained therein.

**1 6 Anticipated return to creditors**

It is anticipated that RBS, as secured creditor, will suffer a shortfall against its lending. However, the return will be higher than first forecast.

It was initially anticipated that there would be no monies available to either preferential or unsecured creditors. However, due to positive movement in floating charge realisations it now appears likely that preferential creditors will be paid in full and that a prescribed part will be available to unsecured creditors. Furthermore, if successful claims can be made in relation to the mis-selling of interest rate hedging products, there may be an increased return to unsecured creditors.

**1 7 Time costs analysis**

An analysis of time costs incurred between 27 October 2015 and 25 February 2015 prepared in accordance with Statement of Insolvency Practice 9 is attached as part of this Appendix and shows the number of hours spent by each grade of staff on the different types of work involved in the case, and giving the average hourly rate charged for each work type.

The time costs analysis provides details of work undertaken by the office holders and their staff following their appointment only.

**1 8 The views of the creditors**

We have worked closely with RBS, the secured creditor, both immediately prior to appointment and during the initial trading period. RBS has been regularly updated on progress and given early indication of expected outcome.

**1 9 Approval of fees**

Resolution requesting payment of fees incurred on a time costs basis for the Joint Administrators' post appointment work and payment of fees incurred pre-appointment were approved by RBS.

**1 10 Approval of Expenses and Disbursements**

As above RBS has approved the payment of expenses and disbursements as set out in the main body of this report.

**1 11 Category 2 Disbursements**

In accordance with the resolution sought in relation to expenses and disbursements, the following Category 2 disbursements and disbursements which should be treated as Category 2 disbursements have been incurred since the date of my appointment.

Other amounts paid or payable to the office holder's firm	
Type and purpose	Amount £
Mileage at a rate of 45p per mile	4,705.28
<b>TOTAL</b>	<b>4,705.28</b>

## Disbursements treated as Category 2 disbursements

Other amounts paid or payable to any party in which the office holder or his firm or any associate has an interest	
Type and purpose	Amount £
Eddisons Commercial Ltd which is a member of the Begbies Traynor group, has provided valuation advice in relation to the Company's plant and machinery and provided assistance in the disposal of part of the Company's business. The purpose of obtaining such services was to ensure that assets being sold were sold at or above market value.  Eddisons Commercial Limited was also engaged to dispose of any residual farm equipment once the Company ceased to trade	£23,665 20
Disbursements incurred by Eddisons Commercial Limited in dealing with the asset realisations	£9,594 46
Eddisons Insurance Services Limited, which is a member of the Begbies Traynor Group, has provided insurance brokerage services, having arranged open cover insurance in relation to the Company's assets	£8,743 48
<b>TOTAL</b>	<b>£42,003 14</b>

### 1 12 Other professionals employed & their costs

DLA Piper was instructed to provide legal assistance in support of the appointment of the Joint Administrators. Their cost for this work was £5,077 plus VAT. These costs are based on DLA Piper's time incurred plus disbursements.

Andersons Northern (England) Limited was instructed to provide advice on the sale of part of the business to Acorn Hill Limited. Andersons were remunerated on the basis of time properly incurred plus VAT and disbursements. This totalled £3,029 plus VAT.

Gosschalks Solicitors were instructed to assist with the drafting of the sale agreement between the Company and Acorn Hill Limited. Gosschalks were remunerated on the basis of time properly incurred plus disbursements. Their costs for this work at £4,454 plus VAT. Gosschalks have also assisted in realising monies from the foreign subsidiaries and have incurred time costs of £681 plus VAT to date. This remains unpaid at this time.

Gosschalks assisted with conveyancing work in relation to the sale of Foxcovert and Acorn Hill farms. Their costs for this were £8,583 plus VAT being time costs plus disbursements.

Leonards and Savills acted as joint agents in the sale of Foxcovert and Acron Hill farms. They were paid 2% of gross realisations (1% each) plus marketing costs, disbursements and VAT upon sale of the farms.

**2 EXPLANATION OF OFFICE HOLDERS' CHARGING AND DISBURSEMENT RECOVERY POLICIES**

- 2.1 Begbies Traynor (Central) LLP's policy for charging fees and expenses incurred by office holders is attached as part of this Appendix.
- 2.2 The rates charged by the various grades of staff who may work on a case are also attached as part of this Appendix.

[illegible]

Staff Grade	Partner	Director	Sr Mgr	Mngr	Asst Mngr	Sr Admin	Admin	Jnr Admin	Support	Total Hours	Time Cost £	Average hourly rate £
General Case Administration and Planning		81					18	09	22	81	2,794.50	345.00
							18	09	22	49	584.00	119.18
		81					18	09	22	130	3,378.50	259.88
Compliance with the Insolvency Act, Rules and best practice							53			53	715.50	135.00
							03		06	09	106.50	118.33
												0.00
Case Closure												0.00
Statutory reporting and statement of affairs	08	81					10			79	2,555.50	323.48
Total for Compliance with the Insolvency Act, Rules and best practice, CDDA and investigations	08	81					58		06	141	3,377.50	239.54
Investigations		38								36	1,242.00	345.00
		38								36	1,242.00	345.00
Total for Investigations										25	337.50	135.00
Debt collection							25			37.1	13,184.50	355.38
Property business and asset sales	77	29.4										0.00
Retention of Title/Third party assets												0.00
Total for Realisation of assets	77	29.4					25			39.6	13,822.00	347.48
Trading		85								65	2,242.50	345.00
Total for Trading		85								86	2,242.50	345.00
Secured		16								16	552.00	345.00
Others		20								20	680.00	345.00
Creditors committee												0.00
Total for Dealing with all creditors claims (including employees) correspondence and distributions		36								36	1,242.00	345.00
Meetings												0.00
Other												0.00
Tax							11		0.1	12	159.50	132.92
Litigation	28									28	1,106.00	395.00
Total for Other matters	28						11		0.1	40	1,265.50	315.38
Total hours by staff grade	113	573					120	09	29	84.4		
Total time cost by staff grade	4,463.50	19,768.50					1,820.00	99.00	319.00		26,270.00	
Average hourly rate £	395.00	345.00					135.00	110.00	110.00			311.26
Total fees drawn to date £											0.00	

# STATEMENT OF EXPENSES

Period 27 October 2015 to 23 February 2016

Type of expense	Name of party with whom expense incurred	Amount incurred £	Amount discharged £	Balance (to be discharged) £
Expenses incurred with entities not within the Begbies Traynor Group				
Legal Fees - General	Gosschalks Solicitors	£1,650	£0	£1,650
Legal Fees – Debt Collection	Addlestone Keane	£2,453	£2,453	£0
Court Fee	Leeds High Court	£10,000	£10,000	£0
Administrators Category 1 disbursements	Begbies Traynor Group	£30	£0	£30
Expenses incurred with entities within the Begbies Traynor Group ( <i>for further details see Begbies Traynor Charging Policy</i> )				
Administrators Category 2 disbursements (all mileage)	Begbies Traynor Group	£27	£0	£27



# CUMULATIVE STATEMENT OF EXPENSES

Period 27 April 2015 to 23 February 2016

Type of expense	Name of party with whom expense incurred	Amount incurred	Amount discharged	Balance (to be discharged)
Agent's fees - Property	Leonards	£8,860	£8,860	£0
Agent's fees - Property	Savills plc	£8,860	£8,860	£0
Agent's disbursements - Property	Leonards	£1,549	£1,549	£0
Legal Fees - Conveyancing	Legal Fees - General	£8,583	£8,583	£0
Costs of Realising Foreign Investments	Stephen Curtis	£7,637	£7,637	£0
Costs of Realising Foreign Investments	Hong Kong International Arbitration Centre	£3,244	£3,244	£0
Property EPC	Leonards	£125	£125	£0
Agent's fees - Assets	Eddisons Commercial Limited	£23,655	£23,655	£0
Agent's disbursements - Assets	Eddisons Commercial Limited	£9,594	£9,594	£0
Legal Fees - General	DLA Piper UK LLP	£5,077	£5,077	£0
Legal Fees - General	Gosschalks Solicitors	£6,815	£4,484	£2,331
Legal Fees - Debt Collection	Addlestone Keane	£2,453	£2,453	£0
Court Fee	Leeds High Court	£10,000	£10,000	£0
Statutory Advertising	Courts Advertising	£85	£85	£0
Bond Premium	Marsh Limited	£140	£0	£140
Administrators Category 1 disbursements	Begbies Traynor Group	£521	£0	£521
Administrators Category 2 disbursements (all mileage)	Begbies Traynor Group	£4,705	£0	£4,705