

# **NATIONAL ENERGY SERVICES LIMITED**

---

## **MEMBERSHIP AGREEMENT**

### **Relating to the SAVA Certification Scheme**

---

**APPLICANTS SHOULD COMPLETE BOTH COPIES OF THIS  
AGREEMENT, WHERE INDICATED ON PAGES 2 AND 21**

Filename: NES/38c  
Date: 16/11/07  
Version: 7

**THIS AGREEMENT** is made on (date)

**BETWEEN:-**

- (1) **NATIONAL ENERGY SERVICES LIMITED** (registered number 01753762) whose registered office is at National Energy Centre, Davy Avenue, Milton Keynes MK5 8NA (the "**Scheme Operator**"); and
- (2) **Name** ..... (**the "Member"**)  
**of** ..... (**home address**).  
.....

**BACKGROUND**

- A. The Scheme is Certification Scheme for Home Inspectors. The Scheme Operator operates the Scheme.
- B. The Member wishes to become a member of the Certification Scheme, has completed the Application Documentation to the Scheme Operator's satisfaction and is Eligible.
- C. The Scheme Operator has agreed to the Member becoming a member of the Scheme upon the terms and subject to the conditions set out in this Agreement.

**IT IS AGREED** as follows:-

**1. INTERPRETATION**

1.1 In this Agreement the following words and phrases have the meanings given below:-

<b>Agreement</b>	means this Agreement together with the documents which are referred to herein;
<b>Annual Membership Fee</b>	means such sum as is specified by the Scheme Operator from time to time and which is payable in respect of Scheme Membership;
<b>Application Documentation</b>	means the documents "How to apply for Membership", the Application Form, the Payments and Charges Schedule and the Registration Payment Form;
<b>Application Fee</b>	means the sums specified as such in the Payments and Charges Schedule;

<b>Certification Schemes</b>	means schemes approved by the Secretary of State under Section 164(4) of the Housing Act and under the Regulations whose members may make Home Condition Reports under Section 164(3) of the Housing Act;
<b>DRHI</b>	means the document entitled “Duties and Responsibilities of Home Inspectors”, which is set out as Annex A to Part 1 of the “Home Information Pack: Standards for Certification Scheme’ published by or on behalf of the Secretary of State in June 2006, as the same may be updated or amended from time to time;
<b>Eligibility Requirements</b>	means the requirement of eligibility as specified in the Scheme Rules;
<b>Eligible</b>	means that the Member meets the Eligibility Requirements to the Scheme Operator's satisfaction;
<b>Energy Performance Certificate</b>	means a report and/or certificate as to energy performance or efficiency as may be prescribed by the Scheme Rules from time to time;
<b>Fees</b>	means Application, Software Licence, Membership Fees and Transaction Fees;

<b>Fit and Proper</b>	means that a person is fit and proper to be a Home Inspector in accordance with the Scheme Rules from time to time;
<b>HCRR Operator</b>	means the operator of the central register of Home Condition Reports;
<b>Home Condition Report</b>	means a document dealing with matters mentioned in section 163(d) or (e) of the Housing Act (reports on physical condition or energy efficiency) required to be made by a Home Inspector;
<b>Home Information Pack</b>	shall be construed and interpreted in accordance with Part 5 of the Housing Act;
<b>Home Inspections</b>	means home inspections carried out by Home Inspectors with a view to producing a Home Condition Report and/or an Energy Performance Certificate;
<b>Home Inspectors</b>	means individuals who are members of an Accreditation Scheme;
<b>Housing Act</b>	means the Housing Act 2004;
<b>Income</b>	means all fees, commission and income of whatever nature received by the Member in connection with the carrying out of the Member's Activities as a Home Inspector;
<b>Ineligible</b>	means that the Member does not meet the Eligibility Requirements for any reason;
<b>Initial Membership Fees</b>	means the sums specified as such in the Application Documentation;

<b>Legal Requirements</b>	<p>means:</p> <ul style="list-style-type: none"> <li>• any act, statutory instrument, by-law, obligation of the European Community or ordinance in force from time to time to which a either party is subject, including, without limitation, the Regulations;</li> <li>• the common law and the law of equity as applicable to the parties from time to time;</li> <li>• any binding court order, judgement, decree or requirement;</li> <li>• any applicable industry code, policy or standard enforceable by law; or</li> <li>• any applicable direction, guidance, policy, rule or order that is binding on a party and that is made or given by any regulatory body having jurisdiction over a party or any of that party's assets, resources or business, including but not limited to any local or supranational agency, inspectorate, minister, ministry, official or public or statutory person of the Government of the United Kingdom or of the National Assembly of Wales, in any jurisdiction that is applicable to this Agreement;</li> </ul>
<b>Lifelong Learning Requirements</b>	means the requirements for lifelong learning of the Member which are prescribed by the Scheme Rules from time to time;
<b>Member's Activities</b>	means the carrying out of Home Inspections, the preparation of Home Condition Reports and/or Energy Performance Certificates and related activities which are carried out by the Member
<b>Membership</b>	means the Member's membership of the Scheme upon the terms and subject to the conditions set out in this Agreement;
<b>Membership Commencement Date</b>	means the date upon which the Scheme Operator issues a unique membership number in respect of the Member, as notified to the Member;
<b>Membership Fees</b>	means the Initial Membership Fees, the Annual Membership Fee and if applicable the Renewal Fee;

<b>Membership Pack</b>	<p>means a pack of documents to be issued to the Member by the Scheme that shall include in particular but without limitation the following:</p> <ul style="list-style-type: none"> <li>• a copy of the Scheme Rules;</li> <li>• a copy of the DRHI;</li> <li>• a copy of the IDRS processes</li> <li>• guidance on Relevant Qualifications and Lifelong Learning Requirements;</li> </ul> <p>in each case as in their current form as at the date that the Membership Pack is issued;</p>
<b>NOS</b>	<p>means the National Occupational Standards for Home Inspectors approved by the United Kingdom Co-ordinating Group of the National Occupational Standards Board as updated, modified or amended from time to time;</p>
<b>Regulations</b>	<p>means the regulations made under section 163 and/o section 164 of the Housing Act and relevant sections of the Statutory Instruments Nos. 991, 1669, and 1667, together with any successor or revised regulations;</p>
<b>Relevant Qualification</b>	<p>means a qualification which satisfies the NOS and is accredited by the Qualification and Curriculum Authority ("<b>QCA</b>") in conjunction with the Welsh Assembly Government Department for Education Lifelong Learning and Skills and which is awarded by an awarding body which is approved by the QCA or (if different) a qualification which satisfies the requirements of the Scheme Rules from time to time;</p>
<b>Renewal Documentation</b>	<p>means the renewal form and declarations issued by the Scheme from time to time in connection with applications for renewal of Membership;</p>
<b>Renewal Fee</b>	<p>means the sum specified as such in the Renewal Documentation which is payable by the Member on or before renewal of Membership;</p>
<b>Scheme</b>	<p>means the SAVA Certification Scheme;</p>
<b>Scheme Rules</b>	<p>means the SAVA Certification Scheme Rules as</p>

	amended by the Scheme Operator from time to time and which are applicable to Home Inspectors who are Members of the Scheme;
<b>Secretary of State</b>	means the Secretary of State for Communities and Local Government, or any successor department;
<b>Software Licence Fees</b>	means the sums specified as such in the Application Documentation which, where applicable, is payable by the Member on or before the date of this Agreement;
<b>Term</b>	means the duration of Membership in accordance with this Agreement;
<b>Transaction Fees</b>	means such sums as are specified by the Scheme Operator from time to time which are payable by the Member;

- 1.2 The clause headings in this Agreement are for the convenience of the parties only and shall not limit or govern or otherwise affect its interpretation in any way.
- 1.3 A reference to any statutory or legislative provision includes a reference to that provision as modified, replaced, amended and/or re-enacted from time to time and any subordinate legislation made under it.
- 1.4 References to the masculine in this Agreement include the feminine, and the singular includes the plural and vice versa.

## 2. **MEMBERSHIP PACK AND MEMBERS' REGISTER**

2.1 The Scheme Operator shall:

- 2.1.1 issue a Membership Pack to the Member;
- 2.1.2 bring updates to the Membership Pack from time to time to the Member's attention by issuing updates to the Member and/or publishing updates on the Scheme's website at [www.sava-cs.org.uk](http://www.sava-cs.org.uk);
- 2.1.3 issue a unique membership number and certificate to the Member; and
- 2.1.4 include the information referred to in Clause 14.3 below, on the public register of Home Inspectors who are members of the Scheme that is to be established and maintained by the Scheme Operator.

### 3. **MEMBERSHIP TERM**

- 3.1 Membership shall commence or be deemed to have commenced on the Membership Commencement Date and, subject to Clause 3.2 [renewal] and Clause 8 [suspension and withdrawal of/from Membership], shall continue until the date which immediately precedes the third anniversary of the Membership Commencement Date, unless varied by the Scheme Operator.
- 3.2 The Member shall be entitled to renew his Membership by paying the Renewal Fee, provided that he is still Eligible.

### 4. **MEMBER'S OBLIGATIONS**

- 4.1 The Member shall at all times during the period of this Agreement comply with:

- 4.1.1 the Scheme Rules;
- 4.1.2 the DRHI;
- 4.1.3 all Legal Requirements;
- 4.1.4 any other rules or requirements of the Scheme as issued from time to time.

in each case to the extent that they are applicable to the Member and the Member's Activities from time to time.

- 4.2 Without prejudice to the generality of Clause 4.1 above, the Member shall:

- 4.2.1 complete Home Condition Reports and/or Energy Performance Certificates in accordance with the Scheme Rules, provided that the Member shall not be required to:

- (a) inspect such parts of a property as are not reasonably accessible on the day of inspection; nor
- (b) move furniture, fittings or personal items at the property during the Home Inspection; and

- 4.2.2 complete Home Condition Reports and/or Energy Performance Certificates in accordance with:

- (a) the Scheme Rules;
- (b) all Legal Requirements; and
- (c) any other rules or requirements of the Scheme as issued from time to time; and
- (d) the standard format for Home Condition Reports, and/or Energy Performance Certificates, as provided to the Member by the Scheme Operator from time to time.

- 4.3 Home Condition Reports and Energy Performance Certificates must not contain any of the following:
  - 4.3.1 information or data from which another living individual can be identified from the report;
  - 4.3.2 any expression of opinion about a living individual; or
  - 4.3.3 information about security features at the property and, in particular, burglar alarm systems, safes or locks.
- 4.4 The Member shall at all times during the period of this Agreement:
  - 4.4.1 carry out the Member's Activities and otherwise act diligently, using all reasonable skill, expertise and care;
  - 4.4.2 comply with the reasonable requests and instructions of the Scheme;
  - 4.4.3 behave in a professional manner in all dealings with the Scheme;
  - 4.4.4 keep the Scheme informed of the Member's Activities upon request from the Scheme;
  - 4.4.5 attend such meetings and reviews as the Scheme reasonably requires;
  - 4.4.6 keep appropriate books and records relating to the Member's Activities and allow the Scheme and such persons as the Scheme shall nominate full access to the same upon request;
  - 4.4.7 provide such information and assistance as the Scheme may reasonably require including in particular without limitation in connection with:
    - (a) the Member's Activities;
    - (b) Home Inspections carried out and Home Condition Reports and Energy Performance Certificates prepared and submitted by the Member;
    - (c) the effective operation of the Scheme and the effective discharge of the Scheme's reporting and other obligations which are owed to the Secretary of State;
    - (d) effective co-operation between Certification Schemes; and
    - (e) any matter relating to any other Home Inspectors' membership of the Scheme and in particular but without limitation any disciplinary action which is being brought or contemplated against them.

**5. MEMBERSHIP FEES AND TRANSACTION FEES**

5.1 The Member shall pay to the Scheme Operator on their due dates as specified by the Scheme Operator from time to time:

5.1.1 the Membership Fees in consideration of the services provided by the Scheme Operator in respect of Membership; and

5.1.2 where applicable, the Software Licence Fees; and

5.1.3 the Transaction Fees in consideration of the services provided and fees paid by the Scheme Operator in respect of Transactions.

5.2 If the Member fails to pay any Fees or other sums due to the Scheme Operator on the due date for payment, the Member will be liable to pay interest to the Scheme Operator on such sum from the due date for payment at the annual rate of 4% above the base lending rate from time to time of Barclays Bank plc, accruing on a daily basis until payment is made, whether before or after any judgement. The Scheme Operator reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998. If any such sum remains unpaid on the due date, all other outstanding sums payable by the Member shall become due and payable immediately. The Scheme Operator shall also be entitled to suspend the Member's membership for so long as any sums due from the Member to the Scheme Operator remain overdue and outstanding. This Clause is without prejudice to any other remedies the Scheme Operator may have against the Member for late payment or otherwise.

**6. CONTINUING ELIGIBILITY AND DISCLOSURE OF INFORMATION**

6.1 The Member represents and warrants that:

6.1.1 the information set out in the Application Form is true, complete and accurate in all respects, and that all contracted payments have been or shall be made to the Scheme Operator, and;

6.1.2 he is and will continue to be Eligible.

6.2 The warranties set out in Clause 6.1 above are:

6.2.1 continuing warranties throughout the duration of this Agreement; and

6.2.2 conditions, breach of which shall be a material breach of this Agreement which is not capable of remedy and which entitles the Scheme Operator to serve notice of withdrawal of Membership pursuant to Clause 8.4.2 below.

6.3 The Member shall immediately notify the Scheme Operator upon the occurrence of any of the following:

6.3.1 any breach or potential or alleged breach of the terms of this Agreement by the Member (including in particular but without limitation the warranties set out in Clause 6.1 above);

- 6.3.2 without prejudice to the generality of Clause 6.3.1 above:
- (a) any event or circumstance which means that the Member is or may become Ineligible which shall include in particular but without limitation the Member ceasing to be Fit and Proper; and
  - (b) any breach or potential or alleged breach of the Scheme Rules or the DRHI;
- 6.3.3 the commencement and outcome of any disciplinary action brought, and consumer redress awarded, against the Member by any other Accreditation or Certification Scheme of which the Member is also a member;
- 6.3.4 any suspension or withdrawal of membership by or from any other Accreditation or Certification Scheme of which the Member is or was also a member;
- 6.3.5 the commencement and outcome of any disciplinary action brought against the Member by, or any suspension or withdrawal of membership by or from, any professional body, trade association, regulatory body or similar organisation of which the Member is also a member;
- 6.3.6 the commencement and outcome of any legal proceedings against the Member in respect of the Member's Activities;
- 6.3.7 any notification by the Member of any claim made against the Member's own Insurance or the Insurance provided to the Member, by the Scheme Operator, in respect of their activities as a Home Inspector;
- 6.3.8 the Member's arrest or charge in connection with any offence of any nature in any jurisdiction including any motoring offence which may result in the loss of their UK Driving Licence;
- 6.3.9 the commencement of any criminal proceedings against the Member;
- 6.3.10 the Member being convicted of any Criminal Offence; or
- 6.3.11 the institution of bankruptcy proceedings against the Member, or the Member making any arrangement with or for the benefit of his creditors.
- 6.4 The Member shall observe and comply with the Lifelong Learning Requirements and must maintain the required level of competence to satisfy the NOS.

## **7. DISCIPLINARY ACTION AND CONSUMER REDRESS**

- 7.1 The Member's attention is drawn to the Scheme Rules, which sets out the circumstances and procedure for disciplinary action and consumer redress.
- 7.2 The circumstances and procedure for disciplinary action and consumer redress are subject to the provisions of Clause 10 below.

- 7.3 The Member agrees to abide by the outcome of the disciplinary action and consumer redress procedure and, if applicable, both parties agree to abide by the outcome of the procedure referred to in Clause 10 below.

## **8. SUSPENSION AND WITHDRAWAL OF/FROM MEMBERSHIP**

### *Rights of Suspension*

- 8.1 The Member's attention is drawn to the Scheme Rules, which sets out the circumstances and procedure for suspension of the Member.
- 8.2 The circumstances and procedure for suspension are subject to the provisions of Clause 10 below.
- 8.3 The Member agrees to abide by the outcome of the suspension procedure referred to at Clause 8.1 above and, if applicable, both parties agree to the outcome of Clause 10 below.

### *Withdrawal of Membership by the Scheme*

- 8.4 The Scheme Operator shall be entitled to serve notice to the Member withdrawing Membership on the date specified in such notice if at any time:
- 8.4.1 the Member commits a material breach of this Agreement which is capable of remedy and which the Member fails to remedy within such period as is specified in the notice given by the Scheme Operator (acting reasonably in all the circumstances); or
- 8.4.2 the Member commits a material breach of this Agreement which is not capable of remedy (a breach shall be considered to be capable of remedy where the relevant obligation can be complied with in all respects, apart from time for performance, save where time is of the essence).

For the purposes of Clause 8.4.1 above, a failure to pay any Fees when due and a repetition of any non-material breach of this Agreement of which the Scheme Operator has notified the Member shall be deemed to be material breaches capable of remedy, without prejudice to the Scheme Operator's rights.

- 8.5 The entitlement of the Scheme to withdraw Membership is subject to the provisions of Clause 10 below, and if applicable, both parties agree to abide by the outcome of Clause 10 below.

### *Withdrawal from Membership by the Member*

- 8.6 Subject to Clause 8.7 below, the Member may withdraw from Membership at any time by serving written notice to the Scheme Operator.

### *General Provisions*

- 8.7 Before withdrawal of/from Membership may take effect the Member shall:

- 8.7.1 Unless otherwise directed by the Scheme Operator in writing, make all Home Condition Reports/Energy Performance Certificates which have been committed to be carried out, or make appropriate arrangements for such Home Condition Reports/Energy Performance Certificates to be made by another Home Inspector to the satisfaction of the relevant seller or estate agent;
  - 8.7.2 complete and submit to the Scheme all outstanding Home Condition Reports/Energy Performance Certificates where the Member has made Home Condition Reports/Energy Performance Certificates; and
  - 8.7.3 pay all outstanding Fees.
- 8.8 Upon withdrawal of/from Membership for any reason taking effect in accordance with Clauses 8.4 or 8.6 above:
- 8.8.1 this Agreement shall automatically terminate;
  - 8.8.2 the Member shall cease to hold himself out as being a member of the Scheme and, if he is not a member, or remaining a member, of any other Accreditation or Certification Scheme, the Member shall cease to hold himself out as being a Home Inspector; and
  - 8.8.3 the Scheme Operator shall as soon as reasonably practicable update the Member's status on the public register of Home Inspectors who are members of the Scheme which is to be established and maintained by the Scheme Operator.

## **9. DUTIES OF THE SCHEME OPERATOR**

- 9.1 The Scheme Operator shall at all times in its dealings with the Member endeavour to:
- 9.1.1 act in a consistent, fair and open manner;
  - 9.1.2 comply with all applicable Legal Requirements (including in particular but without restriction to human rights, discrimination and data protection); and
  - 9.1.3 give clear and justifiable reasons for any decisions taken by the Scheme Operator which relate specifically to the Member (as opposed to decisions which affect all members of the Scheme) including in particular any matter in relation to which Clauses 7 and 8 above apply.
- 9.2 Whether or not the Scheme Operator has acted in accordance with its duties is a matter, which is subject to the provisions of Clause 10, and if applicable, both parties agree to abide by the outcome of Clause 10.

## **10. DISPUTE RESOLUTION**

- 10.1 The Member's attention is drawn to the Scheme Rules which set out the circumstances and procedure for dispute resolution.

10.2 If applicable, both parties agree to abide by the outcome of the dispute resolution procedure referred to in Clause 10.1 above.

## 11. STATUS AND AUTHORITY OF THE MEMBER

11.1 The Member represents and warrants that he has no contractual relationship with the Scheme Operator or the Scheme other than his Membership, unless this is specifically notified to, and agreed by the Scheme Operator. Nothing in this Agreement shall render the Member an employee, worker, agent or partner of the Scheme Operator and the Member shall not hold himself out as such.

11.2 The Member acknowledges and agrees that:

11.2.1 Home Inspectors are in competition with one another; and

11.2.2 there is no guarantee of any volume of Home Inspections or Energy Assessments or of any level of Income.

11.3 to preserve competition between Home Inspectors and the integrity of the free market, the Member agrees that:

11.3.1 except where he is employed by an organisation that employs one or more other Home Inspectors and that organisation sets a uniform pricing tariff for the Home Condition Report/Energy Performance Certificate activities of those Home Inspectors, he shall not enter into or operate any price fixing, cartel or market sharing arrangements or agreements with other Home Inspectors (whether by reference to geographical location, specialism or otherwise); and

11.3.2 he shall immediately report any such arrangements or agreements that he knows or believes to have been entered into or to be operating, identifying the Home Inspectors concerned.

11.4 The Member shall be entitled to use another person, firm or company to perform any administrative, clerical or secretarial functions which are reasonably incidental to Membership and the carrying out of the Member's Activities and if he does so the Member shall:

11.4.1 accept all liability for their terms of engagement; and

11.4.2 indemnify and hold the Scheme Operator harmless from any claims or liability of whatever nature in respect thereof provided that, for the avoidance of doubt, the Member shall not allow any other person who is not also a Home Inspector to produce a Home Condition Report/Energy Performance Certificate on his behalf.

11.5 The Member shall be exclusively responsible for the payment of income tax, national insurance contributions and value added tax payable in respect of Income and shall pay any such taxes and contributions to the relevant taxing authority.

11.6 The Member shall be responsible for all costs and out of pocket disbursements incurred by him in carrying out the Member's Activities.

- 11.7 The Scheme Operator shall not be vicariously liable for the acts or omissions of the Member and the Scheme shall have no liability to the Member in respect of any damage or injury suffered by the Member in connection with the carrying out the Member's Activities.
- 11.8 The Member shall not be entitled by virtue of this Agreement or otherwise to bind the Scheme Operator or to contract in the name of or create liability against the Scheme Operator in any way and for any purpose except as may be expressly authorised in writing by the Scheme Operator.
- 11.9 During the Term, the Member:
- 11.9.1 shall at all times comply with the Scheme Rules with regard to issues of potential conflicts of interest, and:
  - 11.9.2 shall at all times refrain from any activity or action which could bring the Scheme Operator into disrepute, and
  - 11.9.3 shall not carry out any other business or activity which (in the opinion of the Scheme Operator) could impinge upon the Member's ability to carry out the Member's Activities; or lead to any conflict of interest between the Member and the best interests of the Scheme Operator and the Scheme.
  - 11.9.4 shall immediately disclose to the Scheme Operator any such impingement or conflict of interest which arises.
- 11.10 Nothing in this Agreement shall preclude the Scheme Operator from awarding membership of the Scheme to other Home Inspectors.
- 11.11 Nothing in this Agreement shall preclude the Member from joining any other Accreditation or Certification Scheme provided that the Member shall notify the Scheme Operator in writing of any application to join any other Accreditation or Certification Scheme and the outcome of such application.

## **12. LIMITATION OF LIABILITY AND INDEMNITIES**

12.1 THE SCHEME OPERATOR SHALL NOT BE LIABLE FOR ANY INCIDENTAL, SPECIAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES OR LOSS OF PROFITS OR OTHER LOSS OF ANY NATURE WHATSOEVER, NOR FOR ANY CLAIM AGAINST THE MEMBER BY ANY OTHER PERSON OR ENTITY, ARISING FROM OR RELATING TO SERVICES RENDERED BY THE SCHEME OPERATOR OR THE MEMBER, REGARDLESS OF THE NATURE OF THE CLAIM OR THE FORM OF THE CAUSE OF ACTION, WHETHER IN CONTRACT OR IN TORT, OR OTHERWISE, EVEN IF THE SCHEME OPERATOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE MAXIMUM LIABILITY TO THE MEMBER BY THE SCHEME OPERATOR SHALL IN ALL CASES, OTHER THAN THOSE INVOLVING DEATH OR PERSONAL INJURY, BE LIMITED TO £2,000,000.

12.2 The Member shall indemnify the Scheme Operator and keep the Scheme Operator indemnified at all times against any of the following which are not covered by the specific provisions of the Scheme's insurance policies, liability, loss, damage, costs (including legal costs on an indemnity basis) and expense of whatsoever nature incurred or suffered by the Scheme Operator arising from the Member's Activities or from any breach of his obligations or warranties under this Agreement including, without limitation:

12.2.1 any income tax, national insurance contributions (including secondary contributions to the extent permitted by law) (including any interest, penalties or gross-up thereon) arising in respect of the Member for which the Scheme Operator is called upon to account to the relevant taxing authority;

12.2.2 any claim that the Scheme Operator is vicariously liable for any act, neglect or default of the Member;

12.2.3 any liability for any employment related claim or any claim based on worker status brought by the Member against the Scheme Operator arising out of or in connection with the carrying out of the Member's Activities;

12.2.4 any injury or damage to property suffered by the Member (save where caused by the Scheme Operator's negligence);

12.2.5 any act, neglect or default of the Member resulting in a claim or a successful claim of any nature by any third party, including in particular but without limitation in connection with:

(a) any allegedly or actually inaccurate or negligent Energy Performance Certificate; and/or

(b) death, personal injury or damage to property of any third party.

## **13. INSURANCE**

13.1 The Member shall at all times comply with the Scheme Rules.

## **14. DATA PROTECTION**

- 14.1 The Member consents to the Scheme Operator holding and processing personal data relating to him for legal, personnel, administrative and management purposes and in particular to the processing of any "sensitive personal data" (as defined in the Data Protection Act 1998) relating to the Member including, as appropriate, information relating to any information of the nature described in Clause 6 above for insurance purposes and in order to comply with Legal Requirements and obligations to third parties.
- 14.2 The Member consents to the Scheme Operator recording on the Scheme's Home Inspector register and disseminating to members of the public:
- 14.2.1 the Member's name;
- 14.2.2 the Member's unique membership number; and
- 14.2.3 the Member's membership status as defined in the Scheme Rules.
- 14.3 The Member consents to the Scheme Operator recording and passing to the public register of all Home Inspectors which is to be established and maintained by the EPCR Operator for dissemination to members of the public:
- 14.3.1 the Member's name;
- 14.3.2 the Member's unique membership number;
- 14.4 The Member consents to the Scheme Operator making any information which is disclosed to the Scheme Operator by the Member (including in particular but without limitation any information which is disclosed to the Scheme Operator by the Member pursuant to Clause 6 above) available to regulatory authorities, governmental or quasi governmental organisations including in particular but without limitation the Secretary of State, any other Accreditation Scheme and the EPCR Operator.

## 15. **FORCE MAJEURE**

Neither party shall be liable for any delay in performing or for failure to perform its obligations hereunder if the delay or failure results from any cause or circumstance whatsoever beyond its reasonable control, including any breach or non-performance of this agreement by the other party (any such cause or circumstance being referred to as an "**event of force majeure**"), provided the same arises without the fault or negligence of such party. If an event of force majeure occurs, the date(s) for performance of the obligation affected shall be postponed for as long as is made necessary by the event of force majeure, provided that if any event of force majeure continues for a period of or exceeding 6 months, either party shall have the right to terminate this Agreement forthwith by written notice to the other party. Each party shall use its reasonable endeavours to minimise the effects of any event of force majeure.

**16. ASSIGNMENT/SUB-CONTRACTING**

- 16.1 Membership is personal to the Member and subject to Clause 11.4 of this Agreement, the Member shall not assign or sub-contract any of the Member's Activities or any of his rights and obligations under this Agreement without the prior written consent of the Scheme Operator.
- 16.2 The Scheme Operator shall be entitled to assign or sub-contract any of its rights and obligations under this Agreement without the prior written consent of the Member. In particular, the Member acknowledges that the Scheme Operator shall be entitled to sub-contract the day-to-day management of the Scheme to Surveyors and Valuers Accreditation Limited.

**17. SEVERABILITY**

In the event that any of the terms of this Agreement are determined by any competent authority to be invalid or unenforceable to any extent, such term shall to that extent be severed from the body of this Agreement which shall continue to be valid and enforceable to the fullest extent permitted by law.

**18. ENTIRE AGREEMENT**

This Agreement sets out the entire agreement and understanding between the parties and supersedes all prior agreements and understandings relating to its subject matter. No party has entered into this Agreement in reliance upon any representation, warranty or undertaking of any other party that is not set out or referred to in this Agreement.

**19. SURVIVAL OF CAUSES OF ACTION**

Withdrawal of Membership and the termination of this Agreement, howsoever occurring, shall not affect the rights and liabilities of the parties accrued at such time nor affect the continuance in force of such of its provisions as are expressed or capable of having effect after such withdrawal termination.

20. **VARIATION**

Neither this Agreement nor any of its terms or conditions can be varied or waived unless expressly agreed in writing and signed or on behalf of the Scheme Operator and the Member. The Scheme Operator shall however be entitled to amend the Scheme Rules from time to time, subject to providing the Member with a copy of the amended Scheme Rules. The Member also acknowledges that he will automatically be bound by any changes to the Legal Requirements (including the Regulations) and the NOS.

21. **COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall be an original, and all counterparts together shall constitute one and the same instrument.

22. **THIRD PARTY RIGHTS**

22.1 This Agreement is not intended to create any benefit, claim or rights of any kind whatsoever enforceable by any person who is not a party to this Agreement. Accordingly, the parties confirm that no term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to this Agreement.

22.2 If the Secretary of State withdraws or suspends approval as an Accreditation Scheme from the Scheme, references in this Agreement to the Scheme shall be construed and interpreted as references to:

22.2.1 the Secretary of State or any other department, officer or agency of the Crown;  
or

22.2.2 such other Accreditation Scheme as may be specified by the Secretary of State, whether or not such scheme is a successor to the Scheme; or

22.2.3 such other person or body as may be specified by the Secretary of State.

23. **NOTICES**

Any notice to be given hereunder shall be in writing. Any notice to be given to the Scheme Operator or the Member shall be sufficiently served either if delivered personally or sent by post to the address set out in this Agreement (or such other address in the United Kingdom as the addressee may from time to time notify for the purposes of this Clause). Any notice if posted shall be deemed to have been served at the time when in the ordinary course of post such notice would have been received and if delivered by hand shall take effect on delivery.

24. **GOVERNING LAW AND JURISDICTION**

This Agreement is governed by English law and the parties submit to the exclusive jurisdiction of the English courts over any matter or claim arising under or in connection with this Agreement.

**EXECUTED** by the parties overleaf:

**EXECUTED** by: **NATIONAL ENERGY SERVICES LIMITED**  
acting by:

Signature: .....

Name:

Position:            Operations Manager/Registration Services Manager

on date:

Member's Signature:



Please sign in Black ink.

Name:

on date: