

RENTBACK CHARTER ASSOCIATION

Membership Agreement

THIS AGREEMENT is made the day on which the Member agrees to be bound by the terms of this Agreement via the Association's Website and is made BETWEEN

Rent Back CA Limited (company number 06595683 whose registered office is situated at c/o Neves Solicitors, Kingsbridge House, 702 South Seventh Street, Milton Keynes MK9 2PZ ('RBCA')(1); and

You the member agreeing to be bound by the terms of this Agreement ('the Member')(2).

1 Definitions

- 1.1 'Agreement' means this agreement.
- 1.2 'the Association' means the trade organisation operated by the RBCA a company limited by guarantee whose registered office is at c/o Neves Solicitors, Kingsbridge House, 702 South Seventh Street, Milton Keynes MK9 2PZ (company number 06595683), called the Rent Back Charter Association.
- 1.3 'the Association's Administrative Address' means 58 Church Street Wolverton Milton Keynes MK12 5JW or such other address that the Association nominates from time to time.
- 1.4 'the Association's Logo' shall mean the logo and other trademarks (whether registered or not) of the Association as the Association may provide from time to time.
- 1.5 'BMV' means below market value.
- 1.6 'BMV Transactions' means below market value transactions incorporating the purchase of property at a price below the market value that the property would command usually but not always as a result of the vendor's individual financial circumstances.
- 1.7 'Certificate' means the certificate that the Member is required to submit to the Association in accordance with the terms of the Code.
- 1.8 'the Code' means this Code of Conduct as amended from time to time and posted on the Website.
- 1.9 'Compensation Amount' means the sum awarded to a Vendor by the Association in accordance with clause 9 of this Agreement.
- 1.10 'Complaint' means a complaint received by the Association from a Vendor pursuant to the Code relating to the Member's breach of the Code.
- 1.11 'Interest Rate' means the rate of 4% above the base rate from time to time of Barclays Bank Plc or such other clearing bank as the Association shall acting reasonably determine.
- 1.12 'the Member' means the individual member of the Association who agrees to be bound by the terms of this Code.
- 1.13 'the Membership' means the Member's membership of the Association during a Membership Term.
- 1.14 'the Membership Fee' means the annual fee payable by a member to the Association to become and to remain a Member subject to the terms of

- this Agreement. Such fee to be set by the Association from time to time and posted on the Website and notified to the Members by email.
- 1.15 'the Membership Term' means the period during which the Membership remains current.
- 1.16 'the Purchaser' means the Member purchasing a property from the Vendor.
- 1.17 'the Renewal Date' means the date being 12 months from the date hereof and the date being every 12 months thereafter.
- 1.18 'Rent Back' is a type of transaction whereby the Vendor has sold their property to the Purchaser who in turn has then rented back the property to the Vendor enabling the Vendor to continue occupying the property after the sale.
- 1.19 'Transaction Fee' means a fee payable by the Member to the Association in respect of each Certificate submitted. The level of such fee shall be determined by the Association and shall be published from time to time by the Association on its website.
- 1.20 'the Vendor' means the owner of property who wishes to sell their property to the Purchaser.
- 1.21 'the Website' means the Association's website at *www.rentbackcharter.com*
- 1.22 'Working Day' means a day Monday to Friday (inclusive) not being a bank or other public holiday in England.

2 Nature of this Agreement

- 2.1 The Member agrees to be a member of the Association and to abide by the terms of the Code.
- 2.2 The Member acknowledges that the Association will suffer loss of reputation and authority as a regulatory body if the Member fails to abide by the provisions contained within the Code.
- 2.3 The Member hereby agrees that the Association has the full power and authority to enforce against the Member the provisions of this Agreement and the Code.

3 Membership

- 3.1 Upon paying the Membership Fee at the date hereof and on each Renewal Date the Member shall be a member of the Association and shall be eligible to receive the benefits of Membership of the Association as set out in this Agreement.
- 3.2 Membership of the Association shall continue for a period of 12 months and automatically renew for further periods of 12 months on each Renewal Date unless terminated in accordance with the provisions of clause 4 below.
- 3.3 The Members shall be ineligible for membership of the Association if the Member has an unspent criminal conviction involving dishonesty or such

other crime which the Association in its sole discretion reasonably considers may bring the Association into disrepute.

- 3.4 The Members shall have a duty to notify the Association if at any time the Member is convicted of any criminal offence save for minor motoring offences.

4 Termination

- 4.1 The Association may at its sole discretion terminate the Membership if:
- 4.1.1 the Member fails to comply with any term, condition, covenant or provision of or to perform any of his obligations or liabilities under this Agreement or the Code; or
 - 4.1.2 any judgment or order made against the Member by any Court is not complied with within 14 days; or
 - 4.1.3 in the case of an individual:
 - 4.1.3.1 the Member becomes subject to an interim order or makes a proposal for a voluntary arrangement under the Insolvency Act 1986 Part VIII or enters, or seeks to enter, into any other form of composition or arrangement with his creditors whether in whole or in part; or
 - 4.1.3.2 a petition is presented for the bankruptcy of the Member; or
 - 4.1.3.3 the Member becomes of unsound mind; or
 - 4.1.3.4 the Member is convicted of a criminal offence involving dishonesty
 - 4.1.4 in the case of a company or limited liability partnership:
 - 4.1.4.1 the Member makes a proposal for a voluntary arrangement under the Insolvency Act 1986 Part I or enters, or seeks to enter, into any other form of composition or arrangement with its creditors whether in whole or in part; or
 - 4.1.4.2 the Member becomes subject to a notice of an intended appointment of an administrator or an application is made to any court or any meeting of directors or members is called with a view to the Member entering into administration; or
 - 4.1.4.3 an administrative receiver is appointed in respect of the whole or any part of the undertaking of the Member; or
 - 4.1.4.4 a petition is presented in any court or a meeting is convened for the purpose of considering a resolution for the winding up of the Member (except in the case of a reconstruction or amalgamation that has the previous approval in writing of the Association).
- 4.2 The Membership shall automatically cease and terminate if the Member fails to pay the Membership Fee on the Renewal Date or any Transaction Fee as required pursuant to the provisions of this Agreement.
- 4.3 The Member may terminate his Membership at any time by providing written notice to the Association.

- 4.4 If the Membership shall terminate pursuant to clauses 4.1 to 4.3 then such termination shall not affect the right of the Association to enforce the terms of this Agreement or the Code against the Member:
 - 4.4.1 in relation to pre-existing breaches thereof; or
 - 4.4.2 in relation to transactions whereby the Member has already exchanged contracts for the purchase of a property with a Vendor having held himself out to be a Member of the Association; or
 - 4.4.3 in relation to transactions whereby the Member has already submitted a Certificate to a Vendor and the Member fails to notify the Vendor that he is no longer a Member prior to the exchange of contracts for the purchase of a property.
- 4.5 Immediately upon the termination of Membership the Member shall:
 - 4.5.1 notify the Vendor in any transaction that the Member is involved which has not yet proceeded to formal exchange of contracts that the Member is no longer a member of the Association and that the Vendor will therefore not have the benefit of the provisions contained within the Code; and
 - 4.5.2 cease to continue to be a member of the Association; and
 - 4.5.3 no longer be entitled to the benefits as provided for at clause 5 below.

5 Benefits of Membership

- 5.1 The Association was formed in response to negative imaging that BMV investors had been subjected to as a result of the lack of regulation of BMV transactions and specifically those that include a Rent Back element. The Association has therefore pledged to regulate its members within Rent Back transactions and to impose a duty of best practice upon those BMV investors who wish to be members of the Association. Property Vendors can therefore look to the Association's name and logo as a mark of fairness and excellence in Rent Back transactions. The Member acknowledges and accepts that Membership of the Association shall raise the Member's profile and the Member shall benefit from being associated with the Association.
- 5.2 As a further benefit of Membership the Member shall be entitled to use the Association's Logo subject to the provisions of clause 5.4 below and to hold himself out as being a member of the Association.
- 5.3 The Member shall have access to the Website upon which information and resources shall be posted from time to time.
- 5.4 Except as provided in clause 5.2 the Member shall have no rights in respect of the Association's Logo or any trade marks used by the Association or the goodwill associated with them. The Member acknowledges that except as expressly provided in this agreement he will not acquire any rights in respect of such rights and goodwill and that they are, and shall remain, vested in the Association.
- 5.5 The Member must ensure that each reference to and use of the Association's name or the Association's Logo by the Member is in a manner from time to time approved by the Association and accompanied by an acknowledgment, in a form approved by the Association, that the mark is a trade mark (or registered trade mark) of the Association.

- 5.6 The Member must not:
- 5.6.1 make any modifications to the Association's Logo;
 - 5.6.2 use the Association's Logo in any way that might prejudice its distinctiveness or validity or the goodwill of the Association in them;
 - 5.6.3 use in relation to the provision of services of the nature governed by the Code any logo or other trade mark other than the Association's Logo without obtaining the prior written consent of the Association; or
- 5.7 The Member must not advertise in any literature, email, website or otherwise that a Vendor could sell his home and obtain Housing Benefit or any such similar state benefit to assist in paying the rent pursuant to any Rent Back tenancy. If in the individual circumstances of a transaction it transpires that the Vendor may be eligible for Housing Benefit or otherwise then the Member shall advise the Vendor and act in accordance with the Code.
- 5.8 The Member must, at the expense of the Association, take all such steps as the Association may reasonably require to assist the Association in maintaining the validity and enforceability of the intellectual property of the Association during the term of this Agreement.
- 5.9 The Member must at the request of the Association execute such agreements or licences in respect of the use of the Association Logo as the Association may reasonably require, provided that the provisions of the agreements or licences must not be more onerous or restrictive than the provisions of this Agreement.
- 5.10 The Member must not do or authorise any third party to do any act that would or might invalidate or be inconsistent with any intellectual property of the Association, and must not omit to do any act that, by its omission, would have that effect or character, or authorise any third party to omit to do any such act.
- 5.11 The Member must promptly and fully notify the Association of any actual, threatened or suspected infringement of any intellectual property of the Association that comes to the Member's notice, and of any claim by any third party coming to his notice that the use of the Association's Logo, infringes any rights of any other person. The Member must at the request and expense of the Association do all such things as may be reasonably required to assist the Association in taking or resisting any proceedings in relation to any such infringement or claim.
- 5.12 The Association shall have the conduct of all proceedings relating to the Association's Logo and shall in its sole discretion decide what action, if any, to take in respect of any infringement or alleged infringement of or by the Association's Logo, including any action under the Trade Marks Act 1994 section 30 or any similar or equivalent legislation, or passing-off or any other claim or counterclaim brought or threatened in respect of the use or registration of the Association's Logo. The Member must at the request and expense of the Association co-operate with the Association in any action, claim or proceedings brought or threatened in respect of the Association's Logo subject to his reasonable and properly incurred costs, including reasonable legal expenses, being reimbursed by the Association.

6 Transaction Fee

- 6.1 Within 14 Working Days of the legal completion of the Member's purchase of a property in respect of which the Member is required by the terms of the Code and this Agreement to submit a Certificate to the Association the Member shall:
 - 6.1.1 submit an electronic copy of the Certificate to the Association via the Website; and
 - 6.1.2 pay to the Association the Transaction Fee.
- 6.2 In addition to the submission of the Certificate electronically in accordance with Clause 6.1 above the Member shall ensure that an original copy of the Certificate bearing the Member's signature and (if possible) the Vendor's signature is sent by first class post in a properly addressed envelope with postage paid to the Association's Administrative Address within 28 days following legal completion of the Member's purchase of the Property.

7 Utilisation of Monies and Obligations of the Association

- 7.1 Monies received by the Association from time to time by way of Membership Fees or otherwise shall be used by the Association:
 - 7.1.1 in raising public awareness of the positive aspects of Rent Back transactions;
 - 7.1.2 to offer a Rent Back regulatory service;
 - 7.1.3 to offer remedial action for Vendors in circumstances where Members have breached the terms of the Code;
 - 7.1.4 in the administration and set up of the RBCA
 - 7.1.5 in any other way that the Association may choose in accordance with its Memorandum and Articles of Association.
- 7.2 The Association agrees to act diligently and proactively for as long a period as necessary to promote the business of Rent Back transactions by way of any process as the Association from time to time consider appropriate.
- 7.3 The Association shall ensure that each member of the Association shall enter into and remain bound by an agreement in similar terms to this Agreement and the Association shall take all reasonable and necessary steps to enforce the terms of such agreements against all members of the Association.

8 Conduct and Behaviour

- 8.1 When acting as an investment Purchaser in relation to the purchase of Property within a Rent Back transaction where the Member is holding himself out as a member of the Association the Member shall act in accordance with the Code and any other regulations that the Association may from time to time impose.
- 8.2 Nothing in this Agreement shall require the Member to act in any particular manner in relation to the sale and purchase of the Members

own property that he intends to occupy as his own residence and not as an investment purchase, or in relation to non Rent Back transactions.

9 Complaints

- 9.1 If the Member receives a Complaint then the Member shall promptly deal with that Complaint in a reasonable and professional manner in an attempt to resolve the Complaint.
- 9.2 The Member acknowledges that the Code provides that if the Vendor is unable to resolve a Complaint with the Member directly the Vendor may raise such Complaint with the Association requesting that the Association mediate between the Vendor and the Member in an effort to resolve the Complaint. The Member shall act reasonably in respect of such mediation and provide any such information and assistance that the Association require in order to bring about a reasonable resolution to the Complaint.
- 9.3 The Member hereby specifically acknowledges that if in the reasonable opinion of the Association a dispute between a Vendor and the Member cannot be resolved due to the unreasonable behaviour of the Member then the Association may acting in their sole discretion award compensation to the Vendor, being a sum not more than the value of the percentage discount at which the Member purchased the property from the Vendor.
- 9.4 The Association shall, in determining the amount of compensation to award to the vendor pursuant to Clause 9.3 above have regard to any benefit that the Vendor may have received as a result of the transaction with the Member.
- 9.5 If pursuant to the terms of this Agreement the Association makes an award of compensation to a Vendor then the Member shall within 7 working days of receiving notification of the Association's decision make payment to the Association the Compensation Amount as notified to the Member or at the sole discretion of the Association the Member shall pay the Compensation Amount to the Vendor directly immediately notifying the Association that payment has been made.
- 9.6 In addition to the Compensation Amount payable by a Member pursuant to clause 9.5 above the Member shall also pay to the Association within 7 days of receiving written notification of the same a sum equal to the 5% of the Compensation Amount subject to a minimum payment of £500 in respect of the Association's administration costs and expenses in dealing with the Complaint.
- 9.7 The award of compensation provided for at Clause 9.3 above shall be by way of fine and not damages flowing from the breach of this Agreement but the failure to pay the specified sum of compensation in accordance with Clause 9.5 above shall be a direct breach of this Agreement and may be enforced by any such methods as are available to the Association.

10 Amendments to the Code

- 10.1 The Member acknowledges that from time to time the Association may be required to or may wish to amend the terms of the Code.

- 10.2 The Member shall be bound by such amended terms of the Code immediately that the same are placed on the Website provided that the Association shall have provided to the Member by email (or otherwise) a full copy of the amended Code.
- 10.3 Immediately following the Member receiving the emailed notification of amendment pursuant to this clause 10 the Member shall provide to the Vendor in any pending transaction that has not yet proceeded to a formal exchange of contracts a copy of the amended Code.

11 Interest

- 11.1 Without prejudice to any other rights that the Association may have if any sum owed to the Association by the Member including any sums owed pursuant to clause 9 above, remains outstanding then interest shall be charged thereon from the date on which such sum becomes due until the date on which it is actually paid at the Interest Rate both before and after judgment for the same.

12 Assignment

- 12.1 This Agreement shall be binding upon, and enure to the benefit of, the parties to this Agreement and their respective successors and permitted assigns, and references to a party in this Agreement shall include its successors and permitted assigns.
- 12.2 The Member shall not be entitled to assign or transfer this Agreement or any of its rights and obligations under this Agreement.
- 12.3 It is specifically agreed that the Association may assign its rights and obligations under this Agreement to any third party without the necessity for the consent of the Member.

13 General

- 13.1 The Member shall provide to the Association all contact details including an email address that the Association shall require and as and when necessary from time to time provide updated contact details to the Association during the period which the Member remains bound by the terms of this Agreement and the provisions of the Code whether or not the Member continues to be a member of the Association.
- 13.2 If any item or provision contained in this Agreement or any part of it ('an Offending Provision') is declared to be or becomes unenforceable invalid or illegal for any reason whatsoever (including but without detracting from the generality of the foregoing a decision by the competent domestic or European courts, an Act of Parliament, European Union legislation or any statutory or other bye-laws or regulations or any other requirements having the force of law) the other terms and provisions of this Agreement shall remain in full force and effect as if it had been executed without the Offending Provision appearing in it. If the exclusion of any Offending Provision will in the Association's opinion adversely affect either the

Association's Logo the goodwill in the Association or the Association's right to receive payment of all or any fees or remuneration under this Agreement, the Association may terminate this agreement by 30 days' written notice to the Member.

- 13.3 Any approval or consent given by a company under this agreement shall be valid only if given in writing by one of its directors. The Member shall not be entitled to claim any money or other damages or remedy by way of set off counterclaim defence or in any other way based upon any claim or assertion or other that the Association has unreasonably withheld or unreasonably delayed any consent or approval required under this Agreement.
- 13.4 This Agreement is not made for the benefit of, nor shall any of its provisions be enforceable by, any person other than the parties to this Agreement and their respective successors and (where applicable) permitted assignees.
- 13.5 Any notice required to be given for the purposes of this Agreement must unless otherwise specified within this Agreement be given by sending it by pre-paid first class post or fax, or by delivery by hand at the relevant address shown in this Agreement or such other address as has been notified in accordance with this clause by the party concerned as being his address for the purposes of this clause. Any notice sent by post shall be deemed to have been served 2 days after posting. In proving service it shall be sufficient to prove that a notice was properly addressed and stamped and put into the post. Any notice sent by fax shall be deemed to have been served on the next business day following the date of dispatch of it. Any notice delivered by hand shall be deemed to have been served when physically delivered at the relevant address. Any notification sent by email (where authorised) correctly addressed shall be deemed to have been delivered on the day that it was sent provided that the sender has not received any delivery failure notice in respect thereof.
- 13.6 This agreement shall be governed by and construed according to English law.

Signed by the Member [*insert name*] whose address is at
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..... Member