

1 DEFINITIONS AND INTERPRETATION

1.1 In these Conditions, unless the context otherwise requires, the following terms shall have the following meanings:

"Biosecurity Conditions" means the conditions issued or amended by the Company from time to time, the current conditions at the date of this Contract (NFSCo CIC Biosecurity Conditions October 2007) are available at www.nfscoc.uk;

"Board" means the board of directors of the Company;

"Charges" means the Collector's costs, fees, charges and expenses reasonably and properly incurred by the Collector in connection with the performance of the Services and in discharging its obligations under the Contract;

"Collection Point" means a collection point notified by a Member to the Company for the collection of that member's Fallen Stock;

"Collector" means the person, company or organisation (including, where the context so admits, its employees, agents, contractors and sub-contractors) appointed by the Company under these Conditions in order to perform the Services;

"Community Regulations" means Regulation (EC) No. 1069/2009 of the European Parliament and of the Council of 3rd October 2002 laying down health rules concerning Animal By-products, as amended by and read with Commission Regulation (EC) No. 808/2003; Commission Regulation (EC) No. 811/2003; Commission Regulation (EC) No. 813/2003; Commission Decision 2003/321/EC; Commission Decision 2003/326/EC; and Commission Decision 2003/327/EC;

"Company" means the NFSCo CIC (Company Number: 5027082), whose registered office is at Stuart House, City Road, Peterborough, PE1 1QF;

"Competent Authority" means any competent authority exercising its powers under such UK Regulations as are applicable to that authority or any person authorised to act on its behalf in connection therewith and includes but is not limited to Defra, the National Assembly for Wales, the Northern Ireland Assembly and the Scottish Executive and such person as are authorised to act on their behalf;

"Complaint" means an issue relating to the provision by a Collector of Services to the Member other than a Dispute relating to Charges or Invoices;

"Conditions" means the terms and conditions set out herein;

"Contract" means the terms of the agreement, into which these Conditions are incorporated and of which they form part, entered into between the Parties.

"DEFRA" means the Secretary of State for Environment, Food and Rural Affairs acting through the Department for Environment, Food and Rural Affairs and any persons authorised to act on the Secretary of State's behalf;

"Dispute" means a disagreement between the Member and a Collector or the Company relating to performance of the Services, to the Charges or to an Invoice, which is not a Complaint;

"Effective Date" means the date upon which the Contract is to commence as notified by the Company to the Member;

"Fallen Stock" means animals which were killed (euthanasia with or without definite diagnosis) or have died (including stillborn and unborn animals) on farm and which were not slaughtered for human consumption. This does include animals killed by routine culling as part of normal production arrangements, where no government support is applied and animals lost during events that would

ordinarily be covered by existing insurance arrangements e.g. fires and road accidents, providing at all times the member accepts liability for the collection and disposal;

"Farmers" means any United Kingdom livestock farmer;

"Insolvency Event" - in relation to the Member, means any one of the following:

(i) a resolution having been passed by the Member's directors to seek a winding up order or a petition for a winding up order having been presented against the Member which has not been dismissed or withdrawn within seven (7) days of its presentation, or any analogous action is taken in a jurisdiction other than England and Wales; or

(ii) a resolution having been proposed to appoint an administrator, or to apply to court for an administration order, or an application for an administration order having been lodged with the Court in respect of the Member or any step is taken pursuant to the Insolvency Act 1986, Schedule B1 and/or the Insolvency Rules 1986 to appoint an administrator out of court or the Member enters administration, or any analogous action that is taken in a jurisdiction other than England and Wales; or

(iii) a receiver, administrative receiver, receiver and manager, court appointed receiver, interim receiver, custodian, sequestrator or similar officer is appointed in respect of the Member or an encumbrancer takes steps to enforce or enforces its security over any part of the Member's assets, or any analogous action that is taken in a jurisdiction other than England and Wales; or

(iv) the Member enters into a voluntary arrangement or meetings are convened for consideration of a proposal for a voluntary arrangement under the Insolvency Act 1986, or any analogous action is taken in a jurisdiction other than England and Wales;

(v) the Member (being an individual) has a bankruptcy order made against him or her or makes an individual voluntary arrangement with his or her creditors or applies for an interim order (within the meaning of the Insolvency Act 1986) or enters into any composition or arrangement with his or her creditors generally; or

(vi) where the Member is resident in the United Kingdom it is unable to pay or has no reasonable prospect of being able to pay its debts within the meaning of Section 123 of the Insolvency Act 1986, but disregarding references in the Insolvency Act 1986 to proving this inability to the court's satisfaction, or any analogous event occurs in a jurisdiction other than England and Wales;

"Invoice" means a statement of the Charges for the Services provided and any Special Fees incurred in the month to which the Invoice relates to be sent by the Company to the Member as set out in Condition 8.2 detailing the Fallen Stock collected (grouped by Collection Point), the identity of the Collector and the species and category of Fallen Stock collected;

"Law" means any applicable law, statute, proclamation, by-law, directive, decision, regulation, rule, order, notice, decision or rule of court or delegated or subordinate legislation, including (without limitation) legislation of the European Union having the force of law in England and Wales and other parts of the United Kingdom without further enactment and including the treaty of Rome and (for the avoidance of doubt) the UK Regulations and the Community Regulation;

"Member" means any United Kingdom livestock farmer who is both registered and accepted as an active Member of the Scheme;

"Party" means either of the Company and the Member;

"Registration Date" means the date of Registration of the Member by the Company;

"Registration Fee" means the fee payable by the Member for being a Member of the Scheme if applicable;

"Registration Letter" means the letter sent by the Company to the Member to confirm that it is a Member of the Scheme;

"Scheme" means the NFSCo CIC established in order to assist United Kingdom farmers in their compliance with the Community Regulations, under the terms of which any Member may arrange with a Collector to collect and dispose of that Member's Fallen Stock;

"Services" means:

(a) the collection, transportation, storage, handling, processing and disposal in accordance with Law by or on behalf of the Collector of those categories of Fallen Stock that the Collector has agreed to collect, transport, handle, process and dispose of as set out in the Award Letter; and

(b) any arrangements made by or on behalf of the Collector in connection with any of those activities;

on the terms provided in Condition 6 and in each case solely in connection with this Contract and the Scheme;

"Special Fees" means separate fees payable to the Collector where the Collector and the Member agree special arrangements for the collection of Fallen Stock, which fall outside the Services. Subject as otherwise set out in these Conditions, Special Fees will be treated for the purposes of this Contract as if they were Charges and the relevant provisions of these Conditions will apply.

"Termination Date" means the date on which the Services may terminate prior to the Expiry Date in Accordance with the terms of this Contract;

"UK Regulations" means:

(a) (in England) the Animal By-Products Regulations 2005 (SI 2005/2347);

(b) (in Scotland) the Animal By-Products (Scotland) Regulations 2003 (Scottish SI 2003/411);

(c) (in Wales) the Animal By-Products (Wales) Regulations 2006 (Welsh SI 1293 (W.127)); and

(d) (in Northern Ireland) the Animal By-Products Regulations (Northern Ireland) 2003 (Statutory Rule 2003/495);

"VAT" means value added tax as provided for in the Value Added Tax Act 1994 and legislation (whether delegated or otherwise) supplemental thereto or in any primary or secondary legislation promulgated by the European Union or any official body or agency of the European Union and any similar sales, consumption or turnover tax replacing or introduced in addition to the foregoing.

1.2 In these Conditions, unless the context otherwise requires:

(a) any reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any change, extension, consolidation or re-enactment and includes any subordinate legislation for the time being in force made under it;

(b) reference to the plural shall include the singular and vice versa and reference to one gender includes reference to all genders; and

(b) any reference to a person shall be to a legal person of whatever kind whether incorporated or unincorporated and shall include a reference to that person's successors, permitted transferees and assigns and any person with whom they may at any time amalgamate.

1.3 Each of these Conditions is separate from all other Conditions so that if one Condition is found to be void

or otherwise unenforceable it will not affect the validity of any of the others.

1.4 If the Company do not enforce any of its rights under these Conditions or if there is a delay in enforcing them, it does not prevent the Company from taking any action to enforce its rights in the future.

1.5 These Conditions are issued 1st December 2009. They are effective with effect from 1st January 2010 for both existing Members and new Members.

2 WARRANTIES, REPRESENTATIONS AND UNDERTAKINGS

2.1 The Member warrants, represents and undertakes to the Company that:

(a) he shall advise the Company's administration office of any change to trading name, address, bank details or any other changes to his Membership. Charges may be applied by the Company to cover any reasonable expense incurred in tracing a Member;

(b) he shall comply with such provisions of the Law applicable to the Member as are relevant to the disposal of any Fallen Stock;

(c) he shall comply with such guidance applicable to the Scheme which may be issued by the Company from time to time and including (without limitation) the Biosecurity Conditions;

(d) he will maintain and will not revoke the direct debit in favour of the Company referred to in Condition 8.2.

2.2 The Member shall at all times be responsible for the actions and omissions of his employees, agents, contractors and sub-contractors (other than Collectors) as if they were his own.

2.3 Throughout the period of this Contract the Member shall not:

(a) allow another person to have knowledge of his nominated password. If a Member believes someone other than himself has knowledge of the password, he should contact the Company's administration office immediately whereupon the service on his account will be suspended until a new nominated password has been provided to him. Liability of the Member ceases as soon as notification has been received by the Company unless unauthorised use of the Member's password is due to fraud or negligence on the part of the Member in which case the Member becomes liable for all losses subsequently incurred;

(b) in any way misuse, abuse or defraud the Scheme and/or the Company in connection with the Scheme or collude or conspire with any Collector or any other person to do so; nor

(c) commit or attempt to commit any act(s), omission(s) and/or default(s) (including, without limitation, varying prices and/or accepting discounts or rebates outside the Scheme), which causes or is likely to cause a material adverse effect at any time on the marketability of the Scheme to prospective Members and/or the maintenance of the Scheme.

2.4 The Company reserves the right to make such investigations as it sees fit regarding the financial probity of any Member before registering a Member as a Member of the Scheme and after admission to the Scheme to make such investigations as it sees fit into the Member's compliance with this Contract and the Member will (at its own cost) provide such assistance as the Company may reasonably require for this purpose.

3 REGISTRATION AND REGISTRATION FEE

3.1 The Collection Point(s) the Member has nominated will be set out in the confirmation of Registration Letter together with the amount of the Registration Fee payable by the Member to the Company.

3.2 The Company may in respect of any year of the Scheme vary the amount of the fee payable by the Member.

3.3 Any payment due under this Condition 3 shall be made under the direct debit arrangement referred to in Condition 8.2.

3.4 A separate registration fee applies for horse owners and businesses that are not also registered as

Members in respect of farmed livestock. Members who have paid a registration fee for disposal of farmed livestock do not pay an additional registration fee for disposal of any horses that they own.

4. LIABILITY

4.1 The Company shall not be liable for any loss that the Member may suffer as a result of:

i) any error or inaccuracy on the instructions the Member provides to the Company;

ii) Member instructions being incomplete; or

iii) the Member allows someone else to use or obtain (with or without its permission) its security details.

4.2 The Company shall not be liable for any loss or damage as a result of using the services provided by the Company or any Collector except where such loss or damage was caused by negligence, wilful default or fraud by the Company or its employees.

4.3 The Member will be liable for the loss by the Company as a result of any breach of these Terms and Conditions by the Member or any fraudulent or negligent use of the Scheme by the Member. Where alleged fraud has occurred in relation to the Member's account, the Member will be required to co-operate with the Police or Trading Standards in any investigation.

4.4 The Member acknowledges that due to the nature of the internet and electronic communication there is a risk that communications may not operate free from error or interruption. The Company will not be liable for:

i) errors or interruption in communication;

ii) losses or delays in the transmission of instructions to the Company or any Collector caused by any internet service provider or by software failure;

iii) any breaches of security beyond the Company's reasonable control;

iv) any indirect or consequential loss a Member may suffer as a result of using the internet to access any of the services provided by the Company or a Collector.

4.5 The Company will endeavour to act on the Member's instructions promptly once received. However, the Company reserves the right to refuse to act upon any instructions received if:

i) the Company has reasonable grounds for believing that the Member did not send the instructions; or

ii) the instructions are not clear.

4.6 From time to time the service provided by the Company may be closed down for repair, maintenance work or upgrade or, where it is necessary to protect a Member's or the Company's interest. The Company shall give as much notice via the website www.nfsc.co.uk and also via email, as is possible in the relevant circumstances. The Company does not guarantee availability of its services.

5. SECURITY

5.1 The Company will use all reasonable endeavours to monitor and maintain the security of its services but due to the nature of the internet we cannot guarantee security.

5.2 The Member is responsible for keeping its username and password secure at all times. The Company recommends that these should be kept separate. The Member should not write down, disclose or reveal the security details to anyone or keep them anywhere where they can be discovered.

5.3 If for any reason the Member suspects another person knows or is likely to know its nominated password it is critical it advises the Company's administration office on 01335 320014. The Company will suspend this service on your account for your protection until the new nominated password has been provided.

5.4 The Member is responsible for the security of any data which is downloaded from the Company's service onto any hardware or software the Member is using. The Company recommends that the Member uses suitable

anti-virus software when accessing the services provided by the Company via email or the internet.

5.5 The Company reserves the right to suspend access to the services provided by it to a Member if:

a) Incorrect security details are used to try to access the service;

b) The Company suspects that an unauthorised person is attempting to access the service; or

c) In the Company's sole discretion, there is reasonable justification for doing so.

5.6 Telephone calls to the Company's administration office may be recorded for security purposes and for the purpose of staff training and to ensure that Member instructions are carried out correctly. Telephone calls and electronic messages may be monitored and recorded for security purposes and to maintain and improve the Company's service. The information we hold and use may include recordings of your voice.

5.7 The Company reserves the right to reject the security code a Member has chosen if, in the Company's reasonable opinion it is inappropriate for the Service.

5.8 The Company will not accept any instructions made through the email facility which does not relate to the Service or which require the Company to act at a specified time or value. The Member is responsible for ensuring confidential information is not revealed via email.

5.9 The Company will accept a Member's online instructions to add bank details for bill payments. However, the Company does not accept liability if funds are sent to incorrect recipients.

6 COLLECTION

6.1 Collector tariffs are periodically reviewed by the Company and details of current collector tariffs are available by calling 01335 320014 and are shown on our website www.nfsc.co.uk

6.2 It is agreed and accepted by the Member that a Collector may refuse to collect any fallen stock from a Member when, in the opinion of the Collector, the road is unsuitable for the vehicle to proceed along.

6.3 The Member may select any Collector to supply the Services provided that the Collector is at that time approved by the Company under the Scheme and provides the Services in respect of the type of Fallen Stock, which the Member requires to be collected in the postcode area in which the Member is located. Up to date details of approved Collectors operating in each Member's locality and the extent of the Services they provide are available from the Company.

6.4 Under the terms of its contract with the Company, a Collector, on being contacted by a Member with a request to collect and dispose of the Member's Fallen Stock, is obliged:

(a) to make arrangements with the Member for the collection of the Member's Fallen Stock within 48 (forty-eight) hours of the Collector being so contacted or within such other period as the Member and the Collector may jointly agree; and

(b) to record the date and time of the Member's call and the due date and time of collection of the Member's Fallen Stock and the quantity of each category of Fallen Stock to be collected.

6.5 On collection of any Fallen Stock from any Member under the Scheme, the Member must use all reasonable endeavours to obtain a receipt for that collection from the Collector (such receipt being in a format prescribed by the Company and supplied by the Collector), giving the date and time of collection, details of that Collector's registration number and the type and quantity of each category of Fallen Stock collected.

6.6 If the Member (or his representative) permits the Collector to remove the Fallen Stock, the Member will have accepted the Service provided and shall countersign, and date the receipt at the time of collection, which will evidence that acceptance. Where the Member (or his representative) is unable to

- countersign the receipt at that time, the Member will be deemed to have accepted the Service provided, unless he notifies the Collector of a Dispute within 72 hours. The Member and the Collector must make every effort to resolve a Dispute between them during that period.
- 6.7 If there is a Dispute between the Member and the Collector, which cannot be resolved by them within 5 days after the collection, it should in the first place be referred to the Company under Condition 12.1
- 6.8 The Member must keep copies of all receipts issued to him (whether countersigned or not) for 6 years after the date of collection and records of when and where all Fallen Stock was collected under the Scheme. Those records shall be available for inspection by the Company under Condition 10.
- 6.9 The Collector may on occasion, by agreement with the Member, charge Special Fees for the provision of additional services not included within the Services. Any Special Fees must be identified as such on any receipt issued under Condition 6.5 and will not benefit from a Government contribution.
- 7 CHARGES**
- 7.1 The Charges are payable to the Collector by the Company. The Charges payable to specific Collectors by the Company for the Services are as set out in a Schedule of Charges maintained online by the Company. All Charges are fixed by Collectors, not by the Company, the Member having the right to choose the Collector he wishes to do business with.
- 7.2 Charges are exclusive of VAT which is (where applicable) charged in addition. Any increases in Charges are subject to the Company's written approval, which is at the Company's discretion.
- 7.3 If the Member has incurred Special Fees under Condition 6.9, the Company will also pay those Special Fees, provided that no Dispute in relation to the Special Fees has been notified to the Company and the Special Fees have been separately identified on a receipt issued by the Collector and countersigned by the Member under Condition 6.5. The Company reserves the right to refuse to pay Special Fees where, in its sole discretion, it believes it is not appropriate to do so and in such circumstances will inform the Member and the Collector accordingly. In those circumstances, the Collector will obtain payment of those Special Fees directly from the Member.
- 7.4 If the Company notifies the Member that a particular Collector is suspended or is no longer a Member of the Scheme, the Company shall have no liability for any Charges the Member may incur with that Collector for any Services provided after the date of the notification.
- 7.5 The Company shall in no way be liable in connection with these Conditions or the Scheme to the Member or the Collector for any sum or sums other than the payment to the Collector of Charges properly due and payable and (subject to Condition 7.3) any Special Fees.
- 7.6 The Company may change an administration fee if it is necessary to amend an Invoice, if a Member wishes to pay an Invoice by credit card or if any assistance is provided to a Member in relation to payment of an Invoice. The Company may notify Members of its standard administration fees and any amendments to such standard fees from time to time by email or on the Company's website, www.nfsc.co.uk.
- 7.7 The Company reserves the right to charge an administration fee on a per Invoice or per job basis and/or for the production and distribution of an annual report and certificate. Such fees will be notified in advance in writing. Details will also be given on the Company's website, www.nfsc.co.uk
- 7.8 A charge will be made by the Company for producing additional copies of Invoices and/or collection receipts at a minimum rate of £5.00 plus VAT to cover the first two copies. Further copies will be charged at £0.50p plus VAT.
- 7.9 We reserve the right to claim statutory interest at 8% above the Bank of England base rate for late payment in accordance with the Late Payment of Commercial Debts (Interest) Act 1998."
- 8 PAYMENT**
- 8.1 The Company recommends that Member invoices are checked as soon as possible when received. If a Member believe there is an incorrect entry or details, the Member should contact the Company's administration office on 01335 320014
- 8.2 The Member must pay to the Company every month in arrears a sum equivalent to the Charges incurred by the Member in respect of the Services provided to him during that month and any Special Fees which the Company has paid to the Collector(s) less the amount payable by Government to the Company in respect of those Services as stated on the Invoice (if any). The Member must for this purpose put in place and maintain during the period of this Contract a variable direct debit arrangement in favour of the Company.
- 8.3 The Company will as soon as reasonably possible after the end of each month send to the Member an Invoice. The Invoice will show the amount of the Charges for the Services provided to the Member, the next amount payable by him after deduction of any amount paid to the Company by Government, if appropriate, in respect of those Services and any Special Fees the company has paid.
- 8.4 If the Member has a Dispute about the Invoice, he must notify the Company within 14 working days of the Invoice date. In the absence of any such notification, the Company will take under the direct debit arrangement payment of the next amount set out in the Invoice together with any other amounts then due from the Member to the Company. If the Company is satisfied that the Member has properly operated the provisions of Condition 6.5, his Dispute will be dealt with in accordance with Condition 12. A Dispute may originate from a Member, from a Collector or from the Company but any Charges or Special Fees which are the subject of bona fide Dispute shall not be paid until such Dispute is resolved. If the Member has failed properly to observe Condition 6.5 or 6.6, the Company may disregard the Member's notice of Dispute and take payment under the direct debit as set out above.
- 8.5 The Company reserves the right to claim interest under the Late Payment of Commercial Debts (Interest) Act 1998 to be charged from the date the invoiced amount becomes payable to the date payment is made.
- 9 UNSATISFACTORY CONDUCT**
- 9.1 Where in the opinion of the Company the Member has not complied with the terms of this Contract or his membership of the Scheme, the Company may give the Member a notice specifying: (i) the way in which his conduct falls short of the requirements of this Contract or is otherwise unsatisfactory; and (ii) any rectification period on the terms referred to in Condition 9.2
- 9.2 Where the Member has been notified of a failure in accordance with Condition 9.1, the Company may request from the Member that, at its own cost and expense and as specified by the company, the Member rectifies his unsatisfactory conduct within such period as may be specified by the Company in the notice. However, in exercising any discretion under this Condition 9.2, the Company shall at all times act reasonably in all the circumstances.
- 9.3 The Company reserves the right to expel a Member for abusive behaviour towards the Company's administration staff
- 10 INVESTIGATION, AUDIT, SUSPENSION, TERMINATION (EXPULSION) AND LIABILITY**
- 10.1 The Company may, at its sole discretion, determine that a Member's membership is suspended. If this action is taken a Member will be notified together with the reason for the decision.
- 10.2 The Company shall in addition to its powers under any other provision of this Contract have power to terminate a Collector's right to provide Services at any time. Upon the expiry of any notice period the Collector's right to provide Services shall terminate without prejudice to the rights of the Parties accrued prior to the date of termination.
- 10.3 Other than in exceptional circumstances, the Company shall provide the Member with reasonable advance notice of the Company seeking to exercise its entitlement provided in Condition 10.1 and shall in carrying out any investigation or enquiry into or copying of documents in connection with that provision use reasonable endeavours to avoid any unnecessary disruption to any affected business or businesses.
- 10.4 Without prejudice to any other power of termination provided in these Conditions, the Company may terminate this Contract and the registration of a Member with or without notice (and thereby expel the Member from the Scheme) for any of the following reasons:
- (a) a material breach by the Member of any of the Conditions of this Contract;
 - (b) any breach by the Member of his warranty and undertaking provided in Condition 2.1;
 - (c) any failure by the Member to comply with a notice given following unsatisfactory conduct of the Member under Condition 9.1
 - (d) the Member ceases or proposes to cease to carry on its business;
 - (e) the Member suffers an Insolvency Event.
- 10.5 Furthermore, without prejudice to its rights at Law from time to time, the Company may either terminate the Services with or without notice (and thereby expel the Member from the Scheme) or suspend the Member from the Scheme forthwith for any of the following reasons:
- (a) cancellation or suspension by the Member of the variable direct debit arrangement referred to in Condition 8.2 or refusal (for any reason) by the Member's bank to make payment under that arrangement;
 - (b) any act(s), omission(s) and/or default(s) committed or attempted by or on behalf of the Member in order to misuse, abuse or defraud the Scheme and/or the Company in connection with the Scheme; and
 - (c) any act(s), omission(s) and/or default(s) committed or attempted by or on behalf of the Member, which causes or is likely to cause a material adverse effect at any time on the marketability of the Scheme to prospective Scheme Members and/or the maintenance of the Scheme.
- 10.6 The Company shall notify all Collectors operating in the Member's locality of any exercise by the company of its power provided in this Condition 10 to suspend or expel the Member from the Scheme. In the event that the Company:
- (a) elects to suspend the Member from the Scheme, the Company shall not be liable to the Member and/or any of his servants, officers, agents, employees, contractors and sub-contractors for any failure to pay any Charges arising from any Services performed during the period of that suspension, which shall cease only when the Company elects to reinstate the Member to the Scheme and then solely in accordance with these Conditions;
 - (b) elects to terminate the Services and expel the Member from the Scheme, the Company shall not be liable to the Member and/or any of its servants, officers, agents, employees, contractors and sub-contractors for any failure to pay any Charges in connection with any Services performed on and after the Termination Date.
- Any decision to reinstate the Member to the Scheme shall be at the sole discretion of the Company and the Company shall be entitled to require such guarantees or payments on account as it may see fit as a condition of reinstatement.
- 10.7 Without prejudice to Condition 10.6, in the event that the Company exercises any of its powers referred to in this Condition 10 or any other power of termination, expulsion or suspension provided in these Conditions, the Company shall not be liable to the Member for any losses (including, for the avoidance of doubt, any loss of revenue), costs, expenses, claims, damages and/or liabilities, of any kind, which the Member suffers arising out of or in connection with that exercise (subject always to Condition 10.8). The Company shall not return the registration fee to the Member in any circumstances. The Company shall be entitled to have paid to it by the Member all amounts due and owing to the Company at the date of termination, expulsion or suspension without further demand. The

- Company may take such payment under the direct debit arrangement referred to in Condition 8.2.
- 10.8 Nothing in this Contract shall exclude or restrict the Company's liability to the Member under or in connection with this Contract for fraud, or for death and/or personal injury arising from the Company's negligence.
- 10.9 Subject to Condition 10.8, the Company shall in no way be liable to the Member and/or any of its servants, officers, agents, employees, contractors and sub-contractors under or in connection with this Contract (whether for breach of contract, under indemnity, in tort (including breach of statutory duty) or otherwise (whether or not involving a negligent act or omission) for any loss of use, loss of profit, loss of revenue, loss of contract, loss of goodwill, the cost of capital and any indirect, incidental or consequential loss.
- 10.10 Where the Company becomes aware of any information, which may or is likely to assist any Competent Authority with regard to the Member's compliance with any Law from time to time, the Company may disclose that information to that Competent Authority without obtaining the Member's consent.
- 11 TERMINATION**
- 11.1 The Company shall in addition to its powers under any other provision of this Contract have power to terminate the provision of the Services at any time by giving to the Member one month's written notice. Upon the expiry of that notice period the availability of the Services shall terminate without prejudice to the rights of the Parties accrued prior to the date of termination.
- 11.2 A Member may terminate this agreement at any time by notifying the Company in writing to NFSCo CIC, Sallyfield Lane, Stanton, Ashbourne, Derbyshire DE6 2DA. The notification will only become effective once it has been received by the Company. The Services will then cease to be provided to a Member.
- 11.3 The Company reserves the right to vary these Terms and Conditions at any time. Any variation will only take place after the Company has given the Member at least 30 days prior written notice of any changes before they take effect. The Company will notify a Member of any changes by email and/or by post.
- 11.4 The Company may terminate the contract immediately if the Member persistently breach these Terms and Conditions or if we suspect fraud and misuse of the Service by the Member.
- 11.5 Termination of this agreement shall be without prejudice to the accrued rights and liabilities of the Parties to one another.
- 12 DISPUTES**
- 12.1 If a Member notifies a Dispute to the Company under Conditions 6.7 or 8.4, the Company shall be entitled to require the Member to produce such receipts and other documents in the Member's possession or under his control as the Company may reasonably require to make a decision to resolve the Dispute. The Company will notify to the Member concerned the basis upon which his Dispute will be handled.
- 12.2 If the Member is dissatisfied with a decision of the Company under Condition 12.1, he may, after paying in advance to the Company a minimum fee of £50 (this figure may be revised by the Company from time to time), appeal to the Board for a review of the decision. The fee may be refunded at the discretion of the Board if the appeal is successful.
- 12.3 The decision of the Board in respect of any appeal under Condition 12.2 shall be final and binding on the Member and any relevant Collector.
- 13 COMPLAINTS**
- 13.1 Occasionally, situations arise where a Member may be dissatisfied with the Company's service. If a Member is dissatisfied with the service they have received they should contact the Company's administration office and discuss their views and concerns.
- 13.2 The Company will always attempt to resolve a Member complaint immediately. However, if that is not possible or upon request, the Company will acknowledge a Member's complaint in writing within five working days. Full details of the Company's internal complaints procedure are available upon request from the Company's administration office. If the Company cannot resolve a Member's complaint to their satisfaction a Member has the right to refer the matter to the Chairman of the Company, full details of which are available from the Company's administration office 01335 320014.
- 13.3 The Member should make every effort to resolve any Complaint directly with the Collector. If the Complaint cannot be resolved either the Member or the Collector may refer the Complaint to the Company in writing and the following provisions of this Condition 13 shall apply.
- 13.4 The Company shall use reasonable endeavours to discuss and resolve any Complaints arising out of or in connection with the provision of the Services or these Conditions. The Company shall be entitled to have produced to it any receipts and/or other relevant documents issued or retained by a Collector and/or the Member, which it may reasonably require.
- 13.5 If the Company cannot resolve the Complaint within 28 days of the Complaint being notified to it and subject to Condition 13.7, the Complaint will be referred to the resolution procedure set out below.
- 13.6 The resolution procedure shall be as follows:
- (a) any party to the Complaint may propose to the other(s) in writing that structured negotiations are entered into with the assistance of a mediator (the "Mediator") before resorting to litigation;
 - (b) within 14 days from the date of the proposal to appoint a Mediator, any of the parties to the Complaint may apply to the Centre for Effective Dispute Resolution ("CEDR") in London to appoint the Mediator;
 - (c) the exchange of any relevant information and the structure to be adopted for the negotiation to be held in London shall be in accordance with the CEDR model mediation procedure;
 - (d) if the parties accept the Mediator's recommendations or otherwise reach agreement on the resolution of the Complaint, that agreement shall be reduced to writing and, once it is signed by their duly authorised representatives, shall be final and binding on the relevant parties;
 - (e) if the parties to the Complaint fail to reach agreement in the structured negotiations within 30 days of the Mediator being appointed, any failure shall be without prejudice to the right of any person subsequently to refer any Complaint or difference to litigation, but the parties agree that, before resorting to litigation, structured negotiations in accordance with this Condition shall have taken place; and
 - (f) other than as agreed in accordance with sub-Condition (e), nothing contained in this Condition shall restrict any person's freedom to commence legal proceedings to preserve any legal right or remedy or protect any proprietary or trade secret right.
- 13.7 Conditions 13.5 and 13.6 shall not apply to those matters referred to in Conditions 9.2, 10.6, 12.3 and 14.3 in respect of which the decision of the Company is final and conclusive or at the sole discretion of the Company.
- 14 DISCLOSURE OF INFORMATION**
- 14.1 Under the Government's Code of Practice on Access to Government Information and the Freedom of Information Act 2000, the Company reserves the right to disclose any information about these Conditions or the operation of the Scheme, unless otherwise agreed in writing with the Member. The Member shall co-operate with the Company to ensure that it is able to meet its obligations provided in that Code and Act.
- 14.2 Unless agreed in writing with the Company, the Member shall keep secret and not disclose any information of a confidential nature obtained by him in connection with these Conditions and/or the Scheme or acquired during the course of the Services, unless that information:
- (a) is in or enters the public domain otherwise than by a breach of an obligation of confidentiality;
- (b) is or becomes known from other sources without breach of any restriction on disclosure;
- (c) is strictly required for any proceedings arising under this Contract; and/or
- (d) is required to be disclosed by the Law from time to time or for the purpose of any judicial proceedings.
- 14.3 The decision of the Company regarding any disagreement arising from this Condition 14 shall be final and conclusive.
- 15 NO AGENCY, EMPLOYMENT, JOINT VENTURE OR PARTNERSHIP**
- 15.1 The Parties are not, nor shall they be deemed to be, at any time carrying on business in common in connection with these Conditions with a view of profit and nothing in these Conditions shall be deemed to create or constitute a partnership nor to constitute or create a joint venture or agreement of employment between the Parties nor to make either Party the agent of the other.
- 15.2 Neither Party shall act or describe itself as the agent, employee or partner of the other, nor shall it make or represent that it has authority to make any commitments on the other's behalf.
- 16 ENTIRE AGREEMENT**
- 16.1 This Contract sets out the entire agreement between the Parties in connection with the subject matter of this Contract and supersedes all prior oral or written agreements, arrangements or understandings between them in connection therewith.
- 16.2 The Parties acknowledge that they have not entered into this Contract in reliance upon any warranty, representation, covenant, undertaking, agreement, term or condition which is not set out or deemed to be set out in this Contract.
- 16.3 Without prejudice to the generality of Conditions 16.1 and 16.2, the Parties irrevocably and unconditionally waive any right they may have to claim damages and/or to rescind this Contract for any misrepresentation whether innocent or negligent, whether in tort, under the Misrepresentation Act 1967 or otherwise or for any breach of any warranty not contained in this Contract, unless such misrepresentation or warranty was made or given fraudulently.
- 17 NOTICES**
- 17.1 Each notice or other communication to be given under this Contract shall be given in writing in English or Welsh and, unless otherwise provided, shall be made by hand or letter. For the avoidance of doubt, notice shall not be validly served by e-mail.
- 17.2 Any notice or other communication to be given by one Party to another under this Contract shall (unless one Party has by no less than 5 (five) business days notice to the other Party specified another address) be given to that other Party's address specified in the Registration Letter.
- 17.3 Any notice or other communication given by any Party shall be deemed to have been received:
- (i) in the case of a notice given by hand, at the time of day of actual delivery; and
 - (ii) if posted, by 10a.m. on the second business day following the day on which it was despatched by first class mail postage prepaid.
- Provided that a notice given in accordance with the above but received on a day which is not a business day or after normal business hours in the place of receipt shall be deemed to have been received on the next business day.
- 18 DATA PROTECTION**
- 18.1 The Company confirms that it complies with Data Protection Act 1998 in relation to the processing of information about Members.
- 18.2 The Member hereby consents to the Company's processing of any Personal Data relating to the Member in connection with the performance by

the Company of activities in connection with one or more of the following:

- a) this Contract,
- b) the Services and/or
- c) the Scheme.

do not intend any term of this Contract to be enforced by any third party.

These Terms and Conditions will be governed by and will be construed in accordance with the laws of England and Wales and the courts of England and Wales will have exclusive jurisdiction.

18.3 In addition, the consents provided by the Member under Clause 18.2 above and without prejudice to the generality of those provisions, the Member hereby consents to the following use and processing activities by the Company in connection with the Member's personal data:

18.3.1 use of your personal data to enable us to offer you accounts, services and products from us.

18.3.3 use of your personal data to assist us in contacting you about improving the way we run, now and in the future, any accounts, services and products we have provided.

18.3.4 use of your personal data to permit us to contact you in any way (including by email, phone, text or multimedia message or other forms of electronic communications) about products and services we and our selected partners are offering. Where we contact you with information relating to selected third parties, such materials will be in relation to promotions or advertisements relevant to the Scheme and/or the farming, agricultural and livestock industry.

18.4 If, at any time after providing the consents set out in clauses 18.1 and 18.2 above, you do not wish to receive marketing materials from our third party affiliates, you can email member@nfsc.co.uk or contact us at the address below, at any time and opt out of receiving such materials if you wish to do so.

18.5 The Data Protection Act 1998 provides that upon payment of a fee, a Member will be entitled to receive details of the information that the Company holds about it.

18.5.1 If a Member wishes to request access to this information, please write to:
NFSCo CIC
Sallyfield Lane, Stanton
Ashbourne, Derbyshire
DE6 2DA
stating what schemes or transactions the information request relates to and the period of time concerned.

18.5.2 A cheque should be included with any such request for £10.00 + VAT made payable to the **NFSCo CIC**.

18.5.3 If photocopying is required, a charge of 10p per A4 sheet may be made.

18.5.4 Depending upon the age and volume of material a response may take a few weeks to allow for the recovery from archives and photocopying.

18.5.5 Written requests are accepted email or post however telephone requests will not be acceptable.

18.6 We will tell you if there are any significant changes to the information that we collect and how we use it. Changes to our terms and conditions will also be published via our website, which can be accessed via <http://www.nfsc.co.uk/>.

19 ASSIGNMENT AND NOVATION

19.1 The Member may not assign, charge or make a trust of any of his rights or the benefit of all or part of this Contract or transfer or delegate any of his duties or obligations without the prior written consent of the Company.

19.2 The Company may at any time assign, charge, transfer or deal in any other manner with this Contract or any of its rights under it or transfer, delegate or sub-contract any of its duties or obligations under it.

20 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

20.1 For the purpose of section 1(2) of the Contract (Rights of Third Parties) Act 1999 the Parties state that they