propertymark

CONDUCT AND MEMBERSHIP RULES

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INTRODUCTION

The Conduct Rules for Principal, Partner, or Director (PPD) members apply to all members who have responsibility for one or more firms or companies as:

a) principal (sole trader), full equity partner (not associate), or director (listed at Companies House), or
b) as ARLA Nominee PPD Developer Members as defined in clause **24.8**

For firms that are engaged in the following business areas, according to their membership division(s):

NAEA Propertymark PPD members:

- Residential property sales
- Residential property lettings
- Residential property management
- Non-residential sales
- Non-residential lettings
- Non-residential property management
- Auctions (including property and chattels)
- Land and new homes

ARLA Propertymark PPD Members:

- Residential property lettings
- Residential property management

NAEA Commercial PPD Members:

- Non-residential sales
- Non-residential lettings
- Non-residential property management
- Business transfer

NAVA Propertymark PPD Members:

- Valuations
- Auctions (including property, chattels, land, and machinery)
- Bailiff and insolvency practice

ARLA Inventories PPD Members:

- Inventories

GENERAL OBLIGATIONS

Obligations to provide information

Members have an obligation to provide the Membership Department with up-to-date information about their employment and any responsibilities as a PPD that are relevant to their membership. See business areas to which the Conduct Rules for all PPD members apply (page 1). See also www.propertymark.co.uk/working-in-the-industry/member-requirements.

Obligation to update information

PPD members must advise the Membership Department of any changes to companies of which they are a PPD that have business areas relevant to their membership. PPD members have an obligation to update the Membership Department about any changes to business addresses, branch openings, closures, and changes in business structure, including business transfers, company purchases and changes in company type.

Principal (sole traders), Partner and Director (PPD) members

It is a mandatory requirement for PPD members* to ensure that any company of which they are a principal, partner, or director and that participates in agency is a member of an approved independent redress scheme. Any firm involved in auctioneering will need to be members of TPOS.

*With the exception of ARLA Propertymark PPD members operating a letting agency based solely in Scotland, as landlord and tenants of such companies would have access to redress through the First Tier Tribunal and the exception of NAVA Propertymark PPD members operating as chattels valuers only, as redress is not available to them.

PPDs should refer to The Property Ombudsman (TPO) scheme documents relevant to the work that their firm undertakes. PPD members' conduct will be judged with reference to these TPO documents, regardless of the division(s) of Propertymark to which they belong. PPDs are also responsible for their colleagues' compliance with these documents, which are available from www.tpos.co.uk and www.propertymark.co.uk/working-in-the-industry/member-requirements/professional-standards

Employees

Employees should refer to the TPO documents relevant to the work they undertake. Employees' conduct will be judged with reference to these TPO documents regardless of the division(s) to which they belong. Employees are expected to do all they can to comply with the detail and spirit of the TPO documents. However, it is recognised that not all employees will be able to comply with all aspects of the TPO Code at all times and each circumstance will be judged on its merits.

The remainder of these rules are divided into three categories:

- Rules that apply only to PPDs, including nominee PPDs
- Rules that apply to all members, employees and PPDs
- Membership Rules

Variation

Propertymark reserves the right to amend these rules, subject to agreement by the Propertymark Board.

Note: Suspended members and existing members who are currently subject to disciplinary procedures (including appeals) remain subject to these Conduct Rules.

1. Accounting Rule

(This rule does not apply to members of ARLA Inventories)

Members' firms that are regulated by the Royal Institution of Chartered Surveyors (RICS), the Law Society or the Law Society of Scotland are exempt from the requirements of this rules.

1.1. Introduction to the Accounting Rule

1.1.1. The principles of this Rule shall apply to any PPD member's firm that holds or handles Client Money or that has a contract with a Client and then outsources the Client Accounting to another organisation/legal entity.

1.1.2. These rules and the annexed Accountant's Report, or Accountant's Report for Client Money, entrusted to an Unnamed Client Accounting Service Provider, defines the minimum level of accounting control required by a PPD, where Clients' funds are transacted by the business of that member. It is presented in a manner that anyone with a rudimentary knowledge of bookkeeping will find it easy to comprehend. If complied with, it should be impossible for a member to confuse Clients' Money with their own, or inadvertently to make improper payments.

1.1.3. In a partnership or company, all partners or directors share the responsibility of maintaining a proper bookkeeping system. Any misappropriation or error by one partner, director or a member of staff is the responsibility of every principal, partner, or director. It is therefore incumbent upon all principals, partners, and directors to satisfy themselves that any breach in the rules is rectified immediately.

1.2. Interpretation and definitions of some key terms used in Client Accounting

Accountant	A suitably qualified or authorised person as detailed in clauses **1.24** and **1.25** of this Rule.
Accountant's report	The annual form duly completed and signed by the Accountant and provided to Propertymark.
Bank	The Bank of England, the Post Office (in the exercise of its powers to provide banking services) or an authorised institution that has permission to accept deposits under the Financial Services and Markets Act (2000).
Building Society	As defined in section 119(1) of the Building Societies Act (1986) and isan authorised institution that has permission to accept deposits under the Financial Services and Markets Act (2000).
Client	Any person or body for whom the PPD member's firm or Client Accounting Service Provider holds or receives Clients' Money (which may include a landlord or tenant, purchaser, vendor, or contractor); including past, present, and prospective Clients.
Client Accounting Service Provider (CASP)	A PPD member's firm that manages Client Money on behalf of another PPD member's firm. See clause **1.3** for a fuller definition.
Client bank account(s)	A suitably designated and recognised current or deposit account at a bank or building society into which Clients' Money is paid or transferred. (See clause **1.9** of this Rule.) (Sometimes called a pooled Client bank account.)

Client's ledger	Documents, journals, file cards, printouts – handwritten, mechanical, or computer generated – which comprise a permanent, chronological record of transactions and balances for an individual client, at any time.
Clients' Money	Any money received or held by a member or PPD member's firm or its Client Accounting Service Provider to which they are not beneficially entitled and over which there is exclusive control. See Clause **1.10** of this Rule for a more detailed definition.
Connected person/associate	A person is an associate of another if they are a spouse or a relative of that other or a business associate of that other. A relative is a brother, sister, uncle, aunt, nephew, niece, lineal ancestor, or lineal descendant. References to a spouse include a former spouse and a reputed spouse. For the purposes of this subsection a relationship shall be established as if an illegitimate child or stepchild of a person had been a child born to them in wedlock.
Office Account	Any normal trading, business or office bank account opened or maintained by the member in which are held, or transferred, funds belonging to the member and/or from which outgoings incurred or due from the member, are paid; as distinct and separate from a Client bank account.
Payment(s)	Any type or style of disbursement, withdrawal, or transfer from a Client bank account.
PPD Member's firm	Firm (legal entity) under the control of any principal, partner, or director who is a member of ARLA Propertymark, NAEA Propertymark, NAVA Propertymark, ARLA Inventories or NAEA Commercial.
Principal Agent (PA)	The firm or firms named in the contracts with the Client.
Reconciliation	An analysis that identifies, on a given date, any differences between balances on Client ledgers against sums held in the Client bank account(s) and the Client Account Cash Book.
Records	All documentation relating to the necessary operation and monitoring of the accounting/bookkeeping process in compliance with the rules of membership (including any byelaws, rules of conduct, codes of practice including appendices of ARLA Propertymark, NAEA Propertymark, NAVA Propertymark, or NAEA Commercial).

1.3. Using a Client Accounting Service Provider (CASP)

PPD member firms wishing to use a CASP are required to adopt one of the following two options:

- Use a named CASP (see **1.3.1**), or
- Use a white label CASP service (see **1.3.2**).

1.3.1. **Using a named CASP.** The following conditions apply:

(a) The CASP is a PPD member firm (excluding ARLA Inventories) or a RICS regulated firm where Propertymark receives written assurances from RICS that all Client Money is covered.

(b) All Client Monies are paid direct to the Client Account(s) owned by the CASP.

(c) All terms of business, landlord and tenancy agreements must clearly identify the legal names of the Principal Agents.
(d) All terms of business, landlord and tenancy agreements must clearly identify the legal name of the CASP in all references to Client Money.
(e) The CASP is the only firm to be able to make payments/withdrawals from the Client Account(s).
(f) The CASP provides Propertymark with a standard annual accountant's report for ALL the Client Money it handles. See Appendix A of the rules.
(g) Both Principal Agents pay the Propertymark CMP levy.

In this way the CASP has exclusive control of the Client Account, and all Clients know who is handling their money. Liability to Clients remains with the CASP, and not with the firm using the CASP. This then constitutes first party Client Accounting by the CASP.

1.3.2. **Using an unnamed CASP service.** The following conditions apply:

(a) The CASP is a PPD member firm or a RICS regulated firm.
(b) All Client Monies are paid direct to the Client Account(s) owned by the CASP.
(c) The CASP is not clearly named in terms of business, landlord and tenancy agreements.
(d) The legal name of the firm using the CASP (the Principal Agent) is clearly stated in terms of business, landlord and tenancy agreements.
(e) All Client Monies are paid into a separate Client Account(s) designated to the PA PPD member firm and owned solely by the CASP.
(f) The CASP is the only firm to be able to make payments/withdrawals from the Client Account.
(g) The PA and CASP both pay the Propertymark CMP levy.
(h) The PA maintains records of all Client Monies in accordance with the relevant Propertymark rules. It may rely on schedules and reconciliations from the CASP, but these should be kept in paper form.
    (i) The PA PPD member firm provides Propertymark with an Accountant's Report for Client Money Entrusted, to an Unnamed Client Accounting Service Provider, on joining or on taking up the Client accounting service, and annually thereafter. See Appendix A to the rules. The PA may commission the report, or CASP, but it remains the responsibility of the PA to provide it to Propertymark.

1.3.3. Any member's firm acting as a CASP as outlined in **1.3.2** must meet the following requirements:

(a) Keep any such Client Money in a Client Account specifically designated to each PA for whom it handles Client Money.
(b) Supply the PA with a copy bank statement from the Client bank account at least monthly.
(c) Not limit the liability of the CASP to its PAs, or if there is any limitation it is, as a minimum, at least the amount the PA has entrusted to it.
(d) Allow a suitably qualified Accountant to audit the CASP in respect of Client Money held on behalf of the PA.

1.3.4. PPDs with member firms using a CASP where the arrangements do not comply with one of the CASP options described in **1.3** must take one of the following actions in order to continue with their divisional membership:

(a) Change their Client Money-handling arrangements in line with one of the CASP options described in **1.3**, or

(b) Find another CASP which complies, or
(c) The member's firm must handle all of its own Client Money.

1.3.5. Client Money subject to the Estate Agents Act (1979) must not be entrusted to a CASP.

1.4. General

Propertymark reserves the right to waive or modify, with or without conditions, in any particular case, the requirements and/or general provisions of this Rule.

1.5. Provision of this Rule to relevant staff and the reporting Accountant

It is the duty and responsibility of PPD members that this Rule is readily available and understood by all principals, partners, and directors etc; of a PPD member's firm and, most essentially, by any staff responsible for operating the accounting process and procedures of that firm. ***A copy of this Rule together with Appendix A must be provided to the reporting Accountant prior to beginning an examination.***

Member Firms must publish their client money handling procedures on their company website and, upon request, make hard copies available, free of charge, to all customers. To meet this obligation, the following link to the Propertymark Conduct and Membership Rules, http://www.propertymark.co.uk/media/1045366/conduct-and-membership-rules.pdf should be added to the Member Firm's website. The annual Accountant's Report will require confirmation that this Rule has been met.

Electronic versions of the CMP certificates provided by Propertymark must be displayed on your website and a hard copy displayed prominently in every branch. In addition, the client money security certificate must be provided to all tenants, landlords and any other person who has provided client money to the member firm.

1.6. Key elements

1.6.1. The relevant membership division requires its members to comply with these rules in respect of their Client Accounts to ensure that Clients' Money is protected. The key basic elements that must apply to Clients' Money entrusted to a PPD member's firm are as follows:

(a) Each transaction must be properly recorded in the PPD member's firm's books/ledgers of account (paper, electronic or otherwise) so that it is clearly identifiable to an individual Client.
(b) Monies must be paid into a specifically designated Client (bank) account with a recognised bank or building society and thus kept separate from the member's firm's own money.
(c) All transactions must be monitored and reconciled on a regular basis.

1.6.2. Client (bank) accounts must be properly designated (*see* clause **1.9** below), easily identifiable, and the individual beneficial owners of any money contained therein should be attributable, without difficulty, for the following main reasons:

(a) To prevent a bank or building society offsetting a credit balance in one account against a debit or charge incurred by another.
(b) To enable a receiver or liquidator or other investigator to identify money that does not belong to the member or their business.

(c) To allow such accounts to easily be monitored and reconciled both internally and externally to demonstrate the financial integrity of the member and to ensure the smooth running of its accounting practices.

1.7. Access to, or availability of, Client Money

A member must ensure that, at all times, all Client Money is held in Client bank accounts and is available on demand to Clients without undue delay or penalty. (For the avoidance of doubt, Client Money must not be placed or held in offshore accounts or fixed/variable rate term bonds or similar funds or arrangements. Unless the bank or building society falls within the definitions in **1.2**, funds are available on demand and any penalty for withdrawal is paid by the member's firm.)

Note: Any penalty for withdrawal of Client Money must be limited to interest earned.

1.8. Client Money from members' properties

A member must not conduct personal or office transactions through a Client bank account, save that it shall be permissible for the member to manage and collect rent on a property or properties belonging to any principal, partner, or director of the firm, so long as the number of properties involved are *de minimis (no more than 5%)*, declared to and so recorded by the Accountant whilst completing the annual audit. It is permissible to hold tenants' deposit monies relating to such properties in a Client (bank) Account. This clause must be read in conjunction with clauses **1.10.2** and **1.11.1**.

1.9. Title and conditions of a Client (bank) Account

1.9.1. All members who receive, or may receive, deposits in transactions to which the Estate Agents Act (1979) applies, shall open, and operate a distinct Clients' Account for that purpose in accordance with the requirements of that Act and with the Regulations made under it.

1.9.2. A PPD member's firm that receives or holds Client money must maintain at least one Client (bank) Account for this purpose.

1.9.3. Any such account(s) must include both the word "Client" and the legal name of the Principal Agent or CASP in the title.

1.9.4. The PPD member's firm must hold on file in its records; written confirmation from any bank or building society where a Client bank account is held, that the following conditions apply to any such account(s):

(a) All money held in the account is Clients' Money; and
(b) The bank or building society is not entitled to combine the account with any other account or to exercise any right of set-off or counter claim against money in that account in respect of any sum owed to it on any other accounts of the member or the member's firm.

1.10. Clients' Money

Clients' Money shall include the following:

1.10.1. Any money received or held by a member or PPD member's firm or its Client Accounting Service Provider to which they are not beneficially entitled and over which there is exclusive control.

1.10.2. Money held in respect of properties owned jointly by a principal, or one or more partners, or directors, together with a person who is not a co-principal, co-partner,or director of the member's firm. (The member's firm is considered a trustee for such money, which must be paid into a Client bank account.)

1.10.3. Payments or lodgements in respect of fees and/or disbursements received before these have been earned or incurred by the member's firm or passed on to a third party.

1.10.4. Tenants' deposits passed to a Tenancy Deposit Scheme operating a custodial option under the provisions of the Housing Act (2004) in England and Wales and the Housing(Scotland) Act (2006) and the relevant regulations for such schemes. Examples of Client Money may include:

(a) Tenants' deposits
(b) Rents
(c) Interest (if in an interest-bearing Client Account) see **1.12**.
(d) Arbitration fees
(e) Fee money taken in advance
(f) Clients' Money held but due to be paid to contractors
(g) Money held by members appointed as a Receiver
(h) Sale proceeds
(i) Purchase deposits
(j) Other money which is held on behalf of any Client related to the normal business of estate agency, letting agency, business agency, auctioneering and property management but excluding any money held for or in connection with investment, saving, banking, conveyancing, or any mortgage.

1.11. Clients' Money does not include the following:

1.11.1. Money (other than tenants' deposits) received in respect of properties wholly owned by a principal, or by one or more partners or directors of the member's firm.

1.11.2. Money held in an account from which a particular Client can separately make withdrawals and so over which the member's firm does not have exclusive control. In the rare circumstances where such accounts are operated, the member's firm must promptly confirm to the Client in writing (and retain a copy) that:

(a) The account is not a Client Account.
(b) Such money is not covered by the Client Money Protection Scheme; and
(c) The account is not monitored as part of the Client accounting compliance procedures.

1.11.3. For the purposes of Propertymark client account reporting, service charges and other client monies collected for block management and/or holiday let purposes are excluded. Client Money held for block management and/or holiday let activities are not regulated by Propertymark.

1.12. Interest on Clients' money

1.12.1. A member's firm may enter into an arrangement, which must be in writing (for example via terms of business, tenancy agreement, letter of engagement, pre-tenancy application documents or similar), with a Client (landlord or tenant) that allows the member's firm to retain interest earned on money held on a Client's behalf. (Such written arrangements/documents shall constitute part of the records

as defined in this Rule.) Where no such arrangement exists, any interest earned belongs to the relevant Client.

1.12.2. Subject to clause **1.12.1** above, where interest is credited to Client bank accounts of a member's firm, the Client Account(s) should be organised in such a way that the member's firm is able to account to each individual Client for the amount of interest earned or due to them.

1.12.3. A member's firm holding Clients' Money (in this context, tenancy deposit bonds) as stakeholder during a tenancy, is entitled to retain any interest that may accrue to such money (Potters *vs.* Loppert 1973), providing this entitlement is made known to the relevant Client(s), in writing, from commencement, i.e., in line with clause **1.12.1** of this Rule.

1.13. Payments into a Client (bank) Account

Payment of money into a Client bank account is restricted to the following:

1.13.1. The minimum sum required to open or maintain the Client bank account.

1.13.2. Clients' Money (see clause **1.10**).

1.13.3. An amount required to be paid by a member's firm to restore in whole or part any money paid out, or withdrawn, in contravention of this Rule.

1.13.4. A cheque or bank draft that includes Clients' Money as well as other money.

1.14. Payments out of a Client bank account

A member's firm should withdraw, transfer, or make a payment from a Client bank accountonly in the following circumstances:

1.14.1. Money paid in to open or maintain the account in accordance with clause **1.13.1** of this Rule and where it is no longer required.

1.14.2. Money paid into the account in accordance with clause **1.13.4** of this Rule, which does not belong to the Client, for payment to the person lawfully entitled to it.

1.14.3. Within three working days of becoming aware of a relevant contravention, money paid into the account in contravention of this Rule.

1.14.4. Money payable to a Client, or, to an appropriate person suitably authorised (in writing) to receive such payments on that Client's behalf.

1.14.5. Money being paid directly into another Client bank account.

1.14.6. Reimbursement of money to the member's firm for money expended by the member's firm on behalf of the Client.

1.14.7. Money lawfully and contractually due, in respect of a PPD member's firm's fees and charges.

1.14.8. Legitimate disbursements, e.g., amounts subject to invoices, costs or demands incurred or received on behalf of the Client.

1.14.9. Provided that in the case of money drawn under sub-clauses **1.14.6** and **1.14.7** above:

(a) The payment is in accordance with lawful and contractual written arrangements (for example via terms of business, pre-contract/tenancy application documents, tenancy agreement, letter of engagement), previously agreed between the parties; or

(b) The Client, or an authorised representative, has been notified or invoiced in writing by the member's firm of the amount and purpose for which the money is being withdrawn and no objection has been raised within a reasonable timescale.

1.14.10. Always provided that, under rule **1.14**, no payment shall be made for or on behalf of an individual Client that exceeds the total amount held on behalf of that particular Client.

1.15. Timing of banking

1.15.1. A member's firm must bank all receipts of Client Money into an appropriate Client bank account within a maximum of two working days from the day on which it was received.

1.15.2. All payments out of a Client bank account should be made promptly, and within not more than 1 calendar month of becoming due.

1.16. Methods of payment from a Client bank account:

Payment from a Client bank account may be made by:

1.16.1. A cheque.

1.16.2. An electronic transfer to another bank or building society account, provided that such an arrangement does not constitute a direct debit transaction.

1.16.3. A bank draft.

1.16.4. Cash (in exceptional cases and where sufficient (staff) safety and (financial) security measures can, in the opinion of the member's firm, be taken for the holding of such money prior to payment; the handing over of such money and, where sufficient records of receipt are obtained upon collection of the money).

1.17. Signatories to payments from a Client bank account:

1.17.1. To avoid undue delays or inconvenience to Clients or others entitled to receive payments, during any absence from the business, the principal, partner, or director must make adequate provision for designated personnel to be able to authorise and/or make appropriate payments.

1.17.2. A member's firm has a duty of care to ensure that appropriate controls exist around the ability of any individual(s) to make payments from a Client bank account, including making online payments, and must maintain an up-to-date and accurate record listing, as a minimum:

(a) The full names of such persons; and

(b) Any limits or restrictions governing the amounts for which that individual is authorised either exclusively or, jointly with others; and

(c) An example or specimen signature of each person.

1.17.3. The original of such a list or schedule should be lodged with the relevant bank or building society used by the member's firm and a copy retained within the records of the member's firm.

1.18. Record keeping (firms using a CASP; see also 1.3.2)

Each member's firm must keep detailed accounting records, using a bookkeepingsystem that is adequately designed and operated. Such records need to record:

1.18.1. All Clients' Money received, held, or paid out by the firm.

1.18.2. The amounts, dates, names, property addresses, reference numbers and other relevant details to identify individual transactions.

1.18.3. Any other money dealt with through a Client bank account, attributable to individual Clients.

1.18.4. An individual Client's balance of monies held, and a balance of all Clients' Money held.

1.19. Books of record

All dealings referred to in clauses **1.18.1** to **1.18.4** above shall be recorded as appropriate, either:

1.19.1. In a Clients' cash book, or in a Client's column of a cash book; or

1.19.2. In a journal recording transfers from the ledger account of one Client to that of another.

1.19.3. **And**, in either case, additionally in a Clients' ledger or in a Client's column of a ledger.

1.20. Supporting documentation

Records must include a list of all persons for whom a member's firm is or has been holding Clients' Money, reconciliation documents, and a list of all the bank and building society account(s) in which the money is held and must include counterfoils or duplicate copies of all receipts issued in respect of Clients' Money received, which shall contain the particulars required to be shown in the accounts.

1.21. Preservation of records

The records kept for the purpose of complying with this Rule must be preserved for six years from the end of the accounting period to which they relate, or from when the account shows a zero-balance following a cessation of the contractual relationship between the parties, whichever is the later. Propertymark recommends that a member's firm consult with their Accountant before disposing of, or destroying, any historic accounting records.

1.22. Computerised recording

Where a computerised bookkeeping system is in operation, this must be capable of producing printed information to conform to this Rule, which therefore is or can be preserved in a permanent format to comply with clause **1.21**.

1.23. Reconciliation(s) – format and frequency

1.23.1. Every member's firm shall:

(a) Ensure all monies due to member firm are removed prior to final reconciliations being undertaken.

(b) At least once every two calendar months (and within no later than ten weeks of a previous reconciliation), reconcile the balance on their Client's cash book(s):

(i) With the balance in their Client bank account(s) using the bank/building society statement(s); and

(ii) With the total of each Client's balance in the Clients' ledger; and

(c) Ensure that such documents necessary to support the reconciliation so produced have been kept safe, complete, and readily available in the cashbook or other appropriate place.

1.23.2. All such reconciliations should be checked and signed by the PPD member of the company, or by such person formally appointed by the PPD, who shall not be the person responsible for the preparation of such reconciliation. (This could be a member of staff of the appointed reporting Accountant, provided this is conducted within ten working days of the reconciliation.)

1.23.3. Reconciliations must be stored so as to be readily available at audit or inspection, in accordance with **1.21**.

1.24. Qualifications of Accountants

An Accountant is disqualified from making a report under this Rule if, at any time between the beginning of the accounting period to which the report relates, and the completion of the report, the reporting accountant shall be a connected person to any principal, partner or director of the member's firm (whether Principal Agent or CASP) or to any member of the staff employed by the member's firm in the preparation of the Client Accounting records. The Accountant must be a member of a relevant professional body and, where the Client funds held are subject to the Estate Agents Act (1979) must be a registered auditor as per section 1239 of the Companies Act (2006).

1.25. Eligibility of Accountants

1.25.1. Where this clause does not conflict with clause **1.24** above, an Accountant is eligible and qualified to give an Accountant's Report for the purposes of this Rule if they are a member of any of the following:

- Institute of Chartered Accountants in England and Wales
- Institute of Chartered Accountants of Scotland
- Chartered Accountants Ireland
- Association of Chartered Certified Accountants

and has a practising certificate from one of the aforementioned bodies, required to undertake such work, where applicable.

1.25.2. And also, if the agent conducts transactions regulated by the Estates Agents Act (1979):

- An individual who is a registered auditor within the terms of Section 1239 of the Companies Act (2006) *or*

- An employee of such an individual; *or*
- A partner in or employee of a partnership that is a registered auditor within the terms of the Companies Act (2006) *or*
- A director or employee of a company that is a registered auditor within the terms of the Companies Act (2006) *or*
- A member or employee of a limited liability partnership under the Limited Liability Partnership Act (2000) that is a registered auditor within the terms ofthe Companies Act (2006).

1.26. Accountant's report – timing and format (see clause 1.48)

Once in every twelve months each member's firm shall arrange the preparation of an Accountant's Report. (See Appendices A). Submission of which must be within 20 weeks of the date of annual request of company documentation.

1.27. Submission of report or 'HealthCheck'

1.27.1. The Report referred to in this Rule must be submitted to Propertymark by the member's firm no longer than 20 weeks after request (if completing the 'HealthCheck', please ensure information is supplied to 'The Letting Partnership', allowing sufficient time to ensure the final report or 'HealthCheck' is received by Propertymark in accordance with this rule).

1.27.2. Late submission of Accountant's Reports may be pursued as a disciplinary matter. Such matters will be dealt with outside of the disciplinary procedures. In these circumstances members may not have an opportunity to explain the reasons for their delay. Instead, late submission could result in a fine up to £200 per breach of every separate requirement. Failure to provide an Accountant's Report within twenty-eight days of the deadline will result in termination of all memberships of all PPD members responsible for the firm. This timescale may be altered with prior arrangement of Propertymark.

1.28. The relevant accounting period

The relevant accounting period refers to the 12 months prior to your annual request for company documentation. Figures are required for two reconciliation dates, at least 3 months apart within the 12-month period.

Propertymark, at its sole discretion, may vary these time frames for any individual case or for any class of members, in order to ensure the fair and proportionate compliance with these rules.

1.29. Change of accounting period

A change of the accounting period of a member's firm must be notified to Propertymark at least one month before the end of the originally notified accounting period.

1.30. Reporting when no Client's Money has been held

Where a member's firm has a Clients' Account or uses a CASP, but no Client's Money has been held during the relevant period, a report shall be completed, by the Accountant, to this effect.

1.31. Where a member is a PPD of more than one firm

Where a member is a Principal, Partner, or Director of more than one firm, a separate report for each firm must be submitted.

1.32. More than one place of business

Where a member's firm has more than one place of business, one or more report(s) may be submitted in respect of the business, provided that the report(s) cover(s) all Clients' Monies held, received, or paid out by the member's firm.

1.33. More than one CASP

Where a member's firm uses more than one CASP, then the requirements must be met for each CASP.

1.34. Accountant's Report – scope and content

It is the duty of each member's firm to provide to their Accountant at appropriate times (usually this would be both at the point of agreeing their terms of engagement and at the time of the audit visit):

1.34.1. An up-to-date copy of this Rule, together with

1.34.2. The Accountant's Report (Appendix A), which must be submitted to Propertymark at the correct time with each page signed and dated by the reporting Accountant.

1.35. Special requirements

1.35.1. New PPD firms that have started trading with a Client bank account at zero balance, and have not yet had an accounting year end, are required to submit immediatelyan Accountant's Report. See Appendix A to the rules.

1.35.2. PPD member's firms that begin to use an unnamed CASP as described at **1.3.2** are required to submit immediately an Accountant's Report for Client Money Entrusted to an Unnamed Client Accounting Service Provider on behalf of the member's firm.

1.35.3. New PPD applicants and current PPD members whose newly acquired company inherited a Client bank account balance, or whose company has already had an accounting year end, will need to submit immediately an Accountant's Report for the company's last financial year.

1.35.4. For business transfers, company purchases, or changes in company type, or if it is unclear what Client Account reporting is required, a PPD member must seek instruction from Propertymark.

1.36. Client accounting compliance check visits and investigations

Reason/rationale for such visits/investigations: In order to comply with obligations placed on Propertymark under its Client Money Protection Scheme and its duty to both its own membership and the public to robustly monitor compliance with Accounting rules, Propertymark may, at any time, carry out or authorise a visit or inspection as part of the random spot checks carried out by Propertymark from time to time upon a member's firm(s) or as a result of information coming to the attention of Propertymark.

1.37. Notification of such visits/investigations

The relevant selected member's firm will be provided with at least a minimum of ten working days' notice of the intention to conduct such a visit.

1.38. Duty to co-operate and provide information/records

It is a condition of membership that a member's firm co-operates with such a visit or inspection and, in this regard, will be required to produce or make available, at a time and place duly notified, such records and documents (howsoever maintained or stored) as necessary for inspection and review by a person appointed by Propertymark, in order that a report on compliance may be produced. CASPs must ensure that their terms of business allow Propertymark access to their Client Account records for inspection visits or audit purposes.

1.39. Scope of visits

Such visits or investigations may or may not comprise an audit (insomuch as this term applies to compliance with this Rule) and may or may not be restricted to an assessment of the systems, procedures and controls operated by the member's firm with regard to the Accounting rules.

1.40. Liability for costs of such visits/inspections

If, following such a visit or inspection conducted under this Rule, the member's firm is found to have contravened or breached the relevant rules, Propertymark reserves the right to require the member's firm to pay an amount, which shall be no more than the total costs, towards the expenses and/or expenditure incurred by Propertymark in conducting such a visit and/or investigation. (For the avoidance of doubt, this amount shall be separate from any other fine or sanction imposed by Propertymark or the Disciplinary Tribunal for a contravention or breach of the rules.)

1.41. Ongoing liability to co-operate after membership ceases

Where membership ceases (for whatever reason) and Propertymark has cause to believe Propertymark may be, or may become, liable to a claim under the Propertymark Client Money Protection Scheme, that member and their firm shall have an ongoing liability to provide full access of their records to Propertymark or its representatives in relation to this Rule.

1.42. Old or dormant Client balances

1.42.1. If a member's firm has credit balances in its Client bank account(s) that represent money previously held for Clients who cannot now be traced or which cannot now be attributed to or identified as belonging to a particular Client, the member's firm is <u>not</u> entitled to take that money, as it can never belong to the member's firm. It represents funds entrusted to the member's firm and would thus be a breach of trust to take a Client's Money even where the member's firm has tried and failed to trace and/or identify the relevant Client.

1.42.2. Such old/dormant funds should be transferred to and recorded in a suitably designated Client Suspense Account Ledger. (For the avoidance of doubt, any such account remains within the scope of this Rule and still subject to regular reconciliation and the year-end audit.)

1.43. Identifying ownership of old or dormant funds

1.43.1. A member's firm must take reasonable steps to identify to whom the money belongs through their accounting and other records, and this should include conducting an extensive investigation of the audit trail; and,

1.43.2. In the case of an old or ex-Client for whom the member's firm no longer acts; reasonable steps must be taken by the Principal Agent(s) to trace the Client, and this might include; writing to the last known place of residence; to the Client's professional advisers (Solicitors, Accountants etc.); to the Client's Bank or any other contacts (referees, guarantors, next of kin, employers etc.) provided within their file.

1.44. Donation of dormant funds to charity

Under exceptional circumstances, and following written explanation of:

- The actions taken by the Principal Agent(s), and
- The current situation and status of any investigations, and
- Disclosure of the amount involved, and
- Sufficient time (usually at least six years) having elapsed from last contact from the Client or activity on the relevant Client Ledger Account,

Propertymark may allow the old or dormant Client funds to be donated by the Principal Agent(s) to a suitable registered charity; subject to an undertaking that any valid proven claim subsequently received by the Principal Agent(s) from the beneficial or legal owner would immediately be met by the member's firm from its own resources. The transfer of such funds to a charity may require a note to the Principal Agent(s) business accounts of a potential liability to a future claim. Any such sums dealt with in this manner should form part of any disclosure to a future potential purchaser of the business.

1.45. Client Suspense Account after mergers etc.

Where any merger, acquisition, amalgamation etc; or similar takes place between a member's firm and any other firm or company, any such funds held in the relevant Client Suspense Account as required under clause **1.42** above, should be transferred to the new company or firm with appropriate and sufficient information and, upon the member's firm receiving a satisfactory written contractual undertaking that such amounts will, subject to a valid future claim, be refunded to the beneficial or legal owner. A member's firm is advised to include in any contract of sale (or similar) an indemnity from the purchaser that any Client funds previously transferred, as a charitable donation, will be a liability of the purchaser.

1.46. Non-compliance – breaches of the Accounting Rule

For the avoidance of doubt, Propertymark considers breaches of, or a failure to comply with, the general or specific requirements of the Accounting Rule as a serious matter that may result in significant sanctions being imposed and may jeopardise membership.

1.47. Tri-partite agreements for audits
(PPD member's firm – Accountants – Regulatory/Professional Body)

It should be noted that the requirement of a PPD member's firm to provide a report under this Rule would not constitute a contract between the Accountants of the firm and Propertymark. A PPD member's firm must take appropriate steps to include in its letter of engagement/contract with its Accountants a clause that permits a copy of any such report to be provided to Propertymark in order to comply with the Accounting Rule.

1.48. Client Account 'HealthCheck' in lieu of an Accountant's Report

Qualifying PPD member firms (see clause **1.48.3** below) may satisfy their annual obligations to provide an accountant's report by agreeing to a Client Account 'HealthCheck' undertaken by the Lettings Partnership. In doing so the PPD member firm agrees to provide specified information through an online form directly with the Lettings Partnership who will assess the PPD member firm's compliance with accepted client accounting practice.

1.48.1. A PPD member firm must provide either an Accountant's Report as specified in clause **1.26** or a 'HealthCheck' within the 6-month period following their financial year end as specified in clause **1.27**. A 'HealthCheck' must not be submitted beforethe PPD member firm's year-end.

1.48.2. Should Propertymark be in receipt of a 'HealthCheck' assessed as 'Refer,' Propertymark may seek further explanation(s) or undertake further investigations which may include compliance visit's and/or account's inspections to the PPD member firm.

1.48.3. PPD member firms may choose to undertake a 'HealthCheck' rather than submit an Accountant's Report if they meet the following criteria:

a) At no stage during the financial year does the total amount held in the PPD member firm's Client Account(s) exceed £1m.
b) Client money held by a PPD member firm must only relate to residential lettings and management activities (excluding client money described in **1.11.3**, specifically excluding holiday lets, block management, sales, and auctioneering).
c) The PPD member firms must not handle client money on behalf of any other legal entity.
d) The PPD member firm must not use a CASP.

1.48.4. Propertymark reserve the right to withdraw the 'HealthCheck' facility at any time or to refuse the ability of a PPD member firm to choose the 'HealthCheck' option if there are valid concerns about the PPD member firm's compliance with the Propertymark accounting rules, in either case reasonable notice will be provided in writing to the PPD member firm.

2. Duty to co-operate with requests for Client account inspections

2.1. Propertymark may – whether or not a complaint has been made – require a member to produce for inspection the company books of account, bank statements, vouchers, and other relevant documents, to provide copies, and give necessary information and explanations. The member shall comply with any of these requirements at a time and place specified by Propertymark.

2.2. This Rule applies to accounting periods up to and including the date of termination or resignation.

3. Complaints handling procedures

3.1. A PPD member's firm must have a written in-house complaints handling procedure. A customer complaint procedure template is available from Propertymark website, https://www.propertymark.co.uk/resource/complaints-procedure.html.

3.2. The procedure must advise complainants how to complain to an independent redress scheme and to Propertymark. Except for Inventory Providers and Valuers, unless the member firm is registered with an approved redress scheme. If based in Scotland a reference to the First Tier Tribunal must be made.

3.3. A PPD member's firm must supply details of the complaints procedure to a complainant as soon as the firm becomes aware of a complaint, or to a complainant who expresses a wish to make a complaint.

4. Professional Indemnity (PI) insurance

Members' firms that are regulated by the RICS, the Law Society or the Law Society of Scotland are exempt from the requirements of this rule.

4.1. All firms where there is a PPD member within membership of one of the divisions of Propertymark (excluding ARLA Inventories, see clause **4.5** for details of ARLA Inventories' requirements) shall maintain PI insurance commensurate with the size and nature of the business and which shall comply with the minimum requirements set out in **Note A** to this Rule.

4.1.1. A failure to maintain PI insurance cover or a failure to provide documentary evidence of that cover to Propertymark will result in termination of membership of all PPD members associated with that company.

4.2. A PPD member's firm is required to provide documentary evidence of their PI insurance cover on the anniversary of their renewal to Propertymark. In circumstances where a policy with rolling or continuous cover has been arranged, Propertymark will require written confirmation from the insurance company or insurance broker that cover continues in place.

4.3. PPD members are required to declare annually their firm's total fee income from all sources for the last financial year so that we can ensure the correct level of indemnity cover is in place (*see* **Note A**).

4.4. A PPD member's firm's PI insurance policy must include the following elements:

- Cover is on a civil liability basis.
- The limit of cover must be on an "any one claim" basis.
- Indemnity in respect of any claims arising out of all work undertaken since the inception of the business.
- Cover for liability arising out of all aspects of the PPD member's firm's activities.

4.5. ARLA Inventories PPD members are required to provide documentary evidence on application and thereafter on an annual basis that they hold current public liability insurance and professional indemnity insurance. A minimum limit of indemnity of £50,000 per claim for both insurances is required.

NOTE A: For those PPD members' firms that undertake work that includes residential lettings or property management, the minimum levels of indemnity are as follows:

For organisations with a **total annual fee income up to and including £150,000**, the limit of indemnity of the PI Insurance policy must be a minimum of £150,000.

For organisations with a **total annual fee income over £150,000**, the limit of indemnity of the PI Insurance policy must be a minimum of £500,000.

For those PPD members' firms that undertake work that **does not** include any element of residential letting or property management, the limit of indemnity of the PI Insurance policy must be a minimum of £100,000.

For PPD members' firms that operate as a CASP, PI insurance cover must:

(i) Have no exclusion or limitation in respect of fraud or dishonesty (fidelity cover relating to the CASP's own money may be limited or excluded), and

(ii) Have a limit of at least £2m in respect of any one claim.

5. Propertymark Client Money Protection (CMP)
(This rule does not apply to members of ARLA Inventories.)

Members' firms that are regulated by the RICS, the Law Society or the Law Society of Scotland and Money Shield are exempt from the requirements of this rule.

5.1. Propertymark retains the right to modify, amend, withdraw, or cease the CMP scheme arrangements or the details therein and, in such circumstances, material changes will be notified to PPDs' firms accordingly, as soon as administratively practicable.

5.2. Propertymark, in consultation with its insurance advisers, will determine the annual levy due under the CMP scheme from each PPD's firm or category of PPD's firm. Requests for payment of the levy will be sent to the PPD's firm on or around the anniversary of acceptance into the CMP scheme. All PPD member's firms that handle/hold clients' money are required to pay the Propertymark CMP levy.

5.3. The CMP levy once paid is non-refundable.

5.4. The same CMP payment limit, as currently in force, applies separately to franchisor members and franchisee members. This is regardless of whether franchisors hold funds on behalf of multiple franchisees, and regardless of whether franchisees rely on franchisors or others to provide their accounting services.

5.5. Similarly, members who subcontract their accounting work to a CASP are required to pay the CMP levy currently in force.

5.6. The failure to make payment of the annual levy by the due date as appears on the invoice will result in termination of membership of all of the PPDs associated with that firm.

5.7. Propertymark may, from time to time, require all PPD members' firms to pay a special additional levy to help maintain and sustain the financial viability of the CMP scheme.

5.8. Where a successful claim is made on the CMP scheme it will constitute a serious breach of the Membership and Conduct Rules, such that disciplinary proceedings may follow.

5.9. Where a payment is made by the CMP scheme to compensate any third party for the default howsoever arising of a sole trader, partnership, limited liability partnership or limited company ("the Business") or of any CASP (as defined in clause 1.3) to whom the custody of client money has been entrusted by the Business, then any individual member of Propertymark who is associated with the Business as either a sole trader, principal, director, employee, shadow director, member, consultant, partner or shareholder shall be jointly and severally liable to indemnify Propertymark or its insurers in respect of any such payment.

5.10. Propertymark will cooperate fully and make full disclosure to any appropriate authority in the event of criminal investigation or proceedings.

6. Obligation to update information

PPD members have an obligation to update the Membership Department as to any changes to business addresses, including branch openings and closures, and regarding changes in business structure. PPD members must advise the Membership Department of any companies of which they are a PPD and have business areas that are relevant to their membership. PPD members must also advise the Membership Department when they cease to be a PPD of a relevant business.

7. Use of window stickers

PPD members have an obligation to display appropriate window stickers as provided by Propertymark.

PPD members must ensure that old stickers are removed when new ones are provided.

8. Use of divisional logos

In accordance with the rules, you should use and display such material promoting your membership of the relevant divisions of the organisation as provided by Propertymark. You should prominently display the appropriate logo on all applicable documentation such as marketing literature, property advertisements, websites and on letterheads.
You must not use logos that you are not entitled to use.

8.1. ARLA Propertymark Protected logo

The ARLA Propertymark Protected logo can be used throughout a company and in all branches i.e., on the Company's website and all company documentation, where the PPD in membership meets all the company obligations for ARLA membership. Employees and all Associate, Affiliate, Student, Deferred and Retired grade members are not permitted to use the ARLA Propertymark Protected logo.

8.2. NAEA Propertymark Protected logo

The NAEA Propertymark Protected logo can be used throughout a company and in all branches i.e., on the Company's website and all company documentation, where the PPD in membership meets all the company obligations for NAEA membership. Employees and all Affiliate, Student, Deferred and Retired grade members are not permitted to use the NAEA Propertymark Protected logo.

It is a condition of the use of the Propertymark logos that they shall not be used without indicating that they are a Collective Trademark. This can be done by adding a note on your website which states: "The Propertymark logo is a Collective Trademark owned by Propertymark Ltd."

8.3. NAEA Commercial logo

The NAEA Commercial logo may be used throughout a company and in all branches i.e., onthe Company's website and all company documentation, where the PPD in membership meets all the company obligations for NAEA Commercial membership. Employees and all Affiliate, Student, Deferred and Retired grade members are not entitled to advertise their membership using the NAEA Commercial logo.

8.4. NAVA Propertymark Protected logo

The NAVA Propertymark Protected logo can be used throughout a company and in all branches i.e., on the Company's website and all company documentation, where the PPD inmembership meets all the company obligations for NAVA membership. Employees and all Affiliate, Student, Deferred and Retired grade members are not permitted to use the NAVAPropertymark Protected logo.

8.5. ARLA Inventories logo

The ARLA Inventories logo may be used throughout a company and in all branches i.e., on theCompany's website and all company documentation, where the PPD in membership meets all the company obligations for ARLA Inventories membership. Employees and all

Student and Deferred members are not permitted to use the ARLA Inventories logo.

8.6. Propertymark logo

The Propertymark logo in isolation must not be used by any member. This is the corporate logo used by Propertymark only.

Note: ***Displaying the logo of a trade body when you are not authorised to do so, or falsely claiming to be a member of a professional body, is a criminal offence. The business itself, a person in charge, or an employee or an associate, may be the subject of the conviction, fine, or civil court order.***

9. Regulation by other organisations

9.1. Where a PPD member's firm is a regulated by the RICS, Law Society, or Law Society for Scotland, that firm is not required to provide Propertymark with an annual Accountant's Report, evidence of professional indemnity insurance cover or to pay the annual Client Money Protection scheme levy, as those organisations take responsibility for regulating those companies.

9.2. If a PPD member's firm ceases to be regulated by the RICS, Law Society or Law Society for Scotland, they must immediately inform Propertymark and supply evidence of PI insurance cover, an Accountant's Report for the last financial year and pay the Client Money Protection levy applicable at that time.

10. Declarations

PPD members are required to make annual declarations in a format applicable to their relevant property business interests and with regard to the handling of Client Money. In any intervening period, PPD members are required to advise Propertymark if their firm commences handling Client Money. Additional declarations may also be required when Propertymark receives information that company responsibilities and/or business areas may have changed. All branches must be declared to Propertymark, with new branches and closures reported as and when necessary.

11. Anti-Money Laundering (AML)

All PPD members' firms, regardless of the member's division, are required to follow the relevant industry guidance if the firm undertakes regulated activities defined within the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations (2017) and any successor legislation.

12. Data Protection

All PPD members' firms, regardless of the member's division, are required to comply with the General Data Protection Regulation (GDPR), the Data Protection Act (2018) and any successor legislation**.**

CONDUCT RULES FOR ALL MEMBERS **(see Clause 22)**

13. General duty to uphold high standards of ethical and professional behaviour

13.1. No member shall do any act (whether in business or otherwise) which:

13.1.1. Involves dishonesty, deceitful behaviour, misrepresentation; and/or

13.1.2. Involves other unprofessional practice or practice that is unfair to members of the public; and/or

13.1.3. In any other way brings Propertymark or any of its divisions or subsidiaries into disrepute.

14. Duty to assist in disciplinary proceedings

14.1. Members shall co-operate with disciplinary investigations and/or proceedings taken against them or other members.

14.2. Members shall comply with the timescales described in the disciplinary procedures and are expected to attend disciplinary hearings. If these procedures result in a fine that is not paid within the prescribed time, then membership will automatically be terminated and the Propertymark will pursue payment and undertake civil action against the member if necessary.

14.3. Propertymark reserves the right to take disciplinary action regardless of any Ombudsman's actual or potential adjudication arising from the same matter.

14.4. Members must co-operate with compliance visits conducted by Propertymark staff or others acting on their behalf.

14.5. Members or their representatives are obliged to provide accounts or other records on demand (*see* **Rule 1**).

14.6. This rule applies to work undertaken during the period of membership, even if the member has subsequently left membership for any reason.

15. Whistle blowing

Members are under a duty to provide Propertymark with details of any other member who they suspect has breached these conduct and membership rules, including TPO documents. No member shall be unfairly treated as a result of reporting such breaches.

16. Duty not to accept secret commissions

Members shall not accept any payment from a third-party service provider unless it is disclosed to their Client. This includes interest on their Client bank account if appropriate.

17. Personal declarations, applications, and fees

17.1. Any person wishing to become a Member of Propertymark shall complete the application form, including declaration questions, and provide payment upon receipt of invoice. Membership is not finalised until these steps have been completed.

17.2. All Members are required to complete the renewal form, including declaration questions annually and provide payment upon receipt of invoice.

17.3. Members are obliged to provide Propertymark with any changes that occur in their status,

including any new responsibilities as a PPD that are relevant to their membership within a reasonable time period. See https://www.propertymark.co.uk/professional-standards/rules.html or see the introduction to these rules.

17.4. All members are required to provide contact details (including relevant telephone numbers and email addresses), including primary work and other business and home address details and to advise the Membership Department of any changes to these details. This is to ensure members can be contacted at any time.

17.5. We retain the right to refuse membership or terminate members as a result of matters disclosed, or because of a failure to disclose.

17.6. Members are required to pay an annual subscription fee as set by the Propertymark Board. Any concessions to the fees must be agreed by the Propertymark Board.

18. Information sharing

18.1. PPD members have a duty to inform Propertymark of any allegation or finding made about their firm by any ombudsman, independent redress scheme, or other professional body. Employee members have a duty to inform Propertymark of any allegation or finding made about them personally by any ombudsman, independent redress scheme, or other professional body.

18.2. Propertymark reserves the right to distribute or receive information about alleged or actual misconduct by members with other relevant bodies, such as the ombudsmen, independent redress schemes, and tenancy deposit schemes.

19. Sale, disposal, and merger

Membership is personal and therefore is not a transferable asset or benefit.

MEMBERSHIP RULES FOR ALL MEMBERS

20. Membership rules

Full membership of Propertymark is open to persons practising as estate agents, letting agents, commercial agents, valuers, auctioneers, surveyors, inventories, property consultants and such other categories of professionals as the Propertymark Board may from time to time prescribe.

21. Ability for Propertymark to Terminate Membership

Propertymark reserve the right to terminate the membership of a Member without recourse to any disciplinary procedures if:

21.1 Any aspect of the declaration and certification in the member's application for membership proves to be false.

21.2 After investigation, a Member is deemed to have failed to ensure that their personal and professional finances have been managed appropriately.

21.3 The subscriptions or any other monies due to Propertymark remain outstanding for more than one month, monies remain a debt and are recoverable by Propertymark.

21.4 Propertymark notifies a Member in writing that they no longer meet the current qualifications for membership or a condition for membership imposed on the Member.

21.5 Propertymark attaches to the Member's membership special conditions and the Member is in breach of those conditions.

21.6 The Member fails to maintain any other requirements or criteria specified by the Propertymark Board.

21.7 The member is deemed not to be a Fit and Proper person by the Propertymark Fitness Panel as a result of any declaration made as part of the annual membership renewal process.

If a Member ceases to be a Member and they represent themselves as a Member of Propertymark in any way, Propertymark may act (including legal proceedings as deemed necessary) and reserves the right to publish the facts in any local and/or national newspapers and other relevant publications.

A Member who ceases to be a Member for any reason shall not be entitled to a refund of any part of his membership fee.

A Member who has their membership terminated by decision of the Fitness Panel has the right of appeal to the Appeals Tribunal, however, their decision is final and binding upon the member.

22. Designatory letters and their use

Designatory letters are set by the Propertymark Board and can be used by all full members at the following grades in each division:

ARLA

MARLA	Member grade
FARLA	Fellow grade

NAEA

ANAEA	Associate grade
MNAEA	Member grade
FNAEA	Fellow grade

NAEA Commercial

ANAEA (Comm)	Associate grade
MNAEA (Comm)	Member grade
FNAEA (Comm)	Fellow grade

NAVA

ANAVA	Associate grade
MNAVA	Member grade
FNAVA	Fellow grade

ARLA Inventories

MARLA (Inv)	Member grade

22.1. Retired members are entitled to use designatory letters, with the addition of (Retd).

22.2. Affiliate, Deferred, Student, and ARLA Associate members are not permitted to use logos or designatory letters at any time.

22.3. Past presidents of a division can be designated as:
PPNAEA, PPARLA, PPNAVA

22.4. Propertymark Fellowship provides the designations Honoured or Hon'd. This grade is either invited to apply or is awarded by the Propertymark Board.
Note: This is a separate grade to Fellow, which is an application process open to all grades and provides the designation: FARLA, FNAEA, FNAEA (Commercial), and FNAVA.

23. Continuing professional development (CPD) rules

23.1. CPD is mandatory for all ARLA, ARLA Inventories, NAEA, NAEA Commercial and NAVA members except for Affiliate, Deferred, Retired grade members.

23.2. Members are required to undertake at least twelve hours' CPD activity per year. At least four of the twelve hours must be obtained by attendance at relevant educational events and up to eight hours by relevant private study (except for those studying for Propertymark Qualifications relevant to their specialism). All CPD should be relevant to the membership specialism and/or relevant to business needs.

23.3. The CPD year runs from 1 January to 31 December and the twelve hours should be submitted by 31 January of the following year, listing the learning outcomes.

23.4. CPD must be provided annually for membership to continue.

23.5. If members belong to more than one division, they are required to submit twelve hours' CPD for each division demonstrating a relevant learning outcome.

24. Membership grades

Different classes of membership including that of 'honorary' membership and the qualifications of such classes and their respective voting rights shall be prescribed by the Board from time to time.

24.1. Student grade

24.1.1. Employees without applicable industry-based qualifications are able to join at the student grade.

24.1.2. Individuals have three years in which to obtain an accepted qualification and upgrade their membership to the Associate, Member or Fellow grade of membership.

24.1.3. Individuals do not have to be working within the industry in order to join at the student grade.

24.1.4. If a qualification is achieved within the three-year period, individuals may continue at the student grade if not currently working within the industry.

24.1.5. If an applicable qualification is not obtained and/or the individual is not in applicable employment at the end of the three-year period, membership will be terminated.

24.1.6. If an individual resigns or is terminated from the student grade, they are not permitted to re-apply for membership at this grade.

Principals, partners, or directors are not eligible to join at the student grade of ARLA, NAEA, NAEA Commercial or NAVA. In the event a student member becomes a principal, partner or director, membership will be terminated. PPDs can join ARLA Inventories at the Student grade.

24.2. Associate grade

24.2.1. NAEA, NAEA Commercial and NAVA Associate applicants must have five years' industry-based experience and demonstrate this upon application. They must remain working in the industry whilst in membership.

24.2.2. ARLA Associate applicants must hold at least the Propertymark Qualifications Level 2 Award in Introduction to Residential Lettings & Property Management Practice (Level 5 in Scotland) or a comparable, regulated and nationally recognised qualification. They must remain working in the industry whilst in membership.

24.3. Member grade

24.3.1. ARLA Inventories, NAEA, NAEA Commercial and NAVA member applicants must hold the at least the applicable Propertymark Qualifications Level 3 Technical Award (Level 6 in Scotland) or a comparable, regulated and nationally approved qualification, which is industry specific for the division and approved by the division or for NAEA, a NAEA endorsed learning programme approved for Level 3 or above. They must remain working in industry whilst in membership.

24.3.2. ARLA employee Member applicants must hold the Propertymark Qualifications Level 2 Award in Introduction to Residential Lettings & Property Management (Level 5 in Scotland) or above, or a comparable, regulated and nationally approved qualification, approved by ARLA or an ARLA endorsed learning programme approved for Level 3 or above. They must remain working in the industry whilst in membership.

24.3.3. ARLA PPD Member applicants must hold the Propertymark Qualifications Level 3 Award in Residential Letting & Property Management or above, or a comparable, regulated and nationally approved qualification, approved by ARLA or an ARLA endorsed learning programme approved for Level 3 or above. They must remain working in the industry whilst in membership.

24.3.4. ARLA PPD Grandfathered Members must have at least one ARLA member qualified at Level 3 (Level 6 in Scotland) or above at the Company to join and retain the ARLA Grandfathered Member grade. ARLA Grandfathered Member grade members are not required to hold an industry-relevant qualification. In the event that there is no longer an ARLA Member or Fellow qualified at Level 3 (Level 6 in Scotland) or above at the firm, ARLA Grandfathered PPD members are given six months in which to qualify at Level 3 (Level 6 in Scotland) or above or to join another ARLA Member or Fellow grade member qualified at Level 3 or above from the Company to ARLA membership. ARLA PPD Grandfathered Members must remain working in the industry whilst in membership.

24.4. Fellow grade

24.4.1. NAEA, NAEA Commercial and NAVA applicants must hold an industry-specific qualification at Level 4 or above, approved by the division, such as Propertymark Qualifications Level 4 Certificate qualifications or for NAEA, a NAEA endorsed learning programme approved at Level 4 or above, to qualify for the Fellow grade. Fellow grade members must also have five years' industry-based experience and must remain working in the industry whilst in membership.

24.4.2. ARLA applicants must hold an industry-specific qualification at Level 4 or above, (such as the 'Propertymark Qualifications Level 4 Certificate in Residential Letting & Property Management,' or an ARLA endorsed learning programme approved

for Level 4 or above) to qualify for the Fellow grade. Fellow grade members must also have five years' industry-based experience, must remain working in the industry whilst in membership.

24.5. Presidential Grade

24.5.1. Presidential Team applicants must be a Propertymark member.

24.5.2. Following an initial selection, an assessment day interview and comprehensive due diligence checks, the Propertymark Board will put candidates forward to a member ballot where all eligible members can vote.

24.5.3. The successful candidate will enter the Presidential Team as the Vice President, moving into the President Elect role in year two and, following a further due diligence check, becoming President in the third year of their term, unless good reason is demonstrated to the Board as to why they should not be elevated automatically into any of those positions.

24.5.4. Should Propertymark decline an application as a result of that due diligence, we reserve the right not to disclose a reason for any such refusal.

24.5.5. If the President Elect role becomes vacant mid-term, the Vice President may need to step into the President Elect position at an earlier point.

24.5.6. If the President role becomes vacant mid-term, the President Elect may need to step into the President position at an earlier point.

24.5.7. All members of the Presidential Team will sign a Commitment Letter, a Confidentiality Agreement and a Conflicts of Interest Form which will be considered by the Chair and if required, referred to the Board. Any new appointments or business interests must be declared to the Chair throughout the presidential term.

24.5.8. A breach of Confidentiality or any other of the requirements of the role may result in the termination of a Presidential Team member. In these events, Propertymark's Nominations and Remuneration Committee will determine the procedure to be followed.

24.6 Deferred grade

24.6.1 Deferred membership is available for a maximum of one year and is awarded on a case-by-case basis. This grade is intended for those who, due to circumstances such aśparental leave, illness, or redundancy, are not currently working within the industry.

24.6.2 This grade is offered at a reduced rate and is available only to full members at Associate, Member or Fellow grade and is not available to PPD members, unless there is another PPD of the company within membership. Whilst at the Deferred grade, members are not permitted to use designatory letters or advertise membership in any way.

24.7 Retired grade

24.7.1 The Retired grade of membership is available to those members who have retired or are no longer working in the industry. Retired grade is not available to ARLA Inventories members.

24.7.1 Retired grade members are permitted to use designatory letters followed by (Retd).

However, they are not permitted to use membership logos in any way.

24.7.2 A Retired grade member must not be a PPD of any property-related company.

24.7.3 Once at the Retired grade, the member is given six months to revert to their previous grade. After this point, if the member wishes to become a full member again, they will need to re-apply for full membership and meet the current criteria of membership.

24.8 ARLA Developer Membership

24.8.1 ARLA Developer Membership is open to persons acting as 'Nominee de facto' PPD for a firm or company that acts as letting agent, or performs the functions of a letting agent, for and on behalf of a property developer or housing association, in circumstances where the letting of the properties of such property developer or housing association (or companies, partnerships or other corporate entities within the same group) is the firm's sole or principal activity.

24.8.2 Where the PPDs of the legal entity described in **24.8.1** are not personally involved in the business or willing to become ARLA members, a 'de jure' PPD can nominate a senior staff member as "responsible person" for the company (Nominee de facto PPD).

24.8.3 ARLA Nominee PPD Developer Membership is only available for ARLA Member and Fellow grades. ARLA Nominee PPD Grandfathered Developer Membership could be made available if necessary.

24.8.4 The Board of Directors of Propertymark shall have the absolute right to determine whether or not such a person, firm or company's activities constitutes eligibility for such membership, or for the continuation of such membership, from time to time.

24.8.5 ARLA Developer Members shall be bound by all of the Conduct and Membership Rules which apply to ARLA PPD members from time to time.

24.9 Affiliate grade

24.9.1 To be eligible for the Affiliate grade of membership, a member must not be working for an agency-based firm. They must be working in an associated industry to be able to justify their need for Affiliate grade membership. Affiliate grade is not available to ARLA Inventories members.

24.9.2 Affiliate grade members are not permitted to advertise membership in any way.

24.10 Changes that may affect status of membership

Any change in circumstances, change of employment, or change of industry, must be notified to the Membership Department, as it may affect status of membership.

24.11 NAEA Propertymark Protected status

A NAEA PPD member at Associate, Member or Fellow grade, dealing with residential sales, should adopt the NAEA Propertymark Protected status for their residential sales company(s) if all other membership obligations have been met. NAEA members must not use the NAEA Propertymark Protected status to describe their individual membership.

24.12 ARLA Propertymark Protected status

An ARLA PPD member at Member or Fellow grade, dealing with residential lettings and property management, should adopt the Propertymark status for their company, if all other membership obligations have been met. ARLA members must not use the ARLA Propertymark Protected status to describe their individual membership.

24.13 NAVA Propertymark Protected status

A NAVA PPD member at Associate, Member or Fellow grade, dealing with property or chattels auctioneering or valuation, should adopt the NAVA Propertymark Protected status for their application company(s) if all other membership obligations have been met. NAVA members must not use the NAVA Propertymark Protected status to describe their individual membership.

25 Suspended members

Once suspensions have been lifted, if membership fees are outstanding, membership fees will be backdated to the end of the membership period in which suspension took place.

GLOSSARY

ARLA	Association of Residential Letting Agents
ARLA Inventories	Association of Residential Letting Agents Inventories
NAEA	National Association of Estate Agents
NAEA Commercial	National Association of Estate Agents Commercial
NAVA	National Association of Valuers and Auctioneers
PPD	Principal (sole trader), partner (full partner, not associate) or director (as listed on Companies House, not Company Secretary). PPDs have responsibilities for every company for which they fulfil a PPD function, and which operates as an agent in property sales, lettings, property management and auctioneering. Propertymark will consider the facts and circumstances of the case to establish whether a person is a PPD and not just using the term as a job title.
PPD member's firm	A company engaged in a relevant property-related business, and which hasa PPD within membership of one of the divisions of Propertymark.
Propertymark	The trading name of Propertymark Ltd
RICS	Royal Institution of Chartered Surveyors
TPO	The Property Ombudsman

APPENDIX A – ACCOUNTANT'S REPORT

The *Propertymark Accountant's Report* which must be submitted annually by PPD Members' firms of NAEA Propertymark, ARLA Propertymark, NAEA Commercial and NAVA Propertymark whose business handles Client Money and/or entrusts Client Money to a CASP.

The latest version of the Propertymark Accountant's Report can be obtained from the following link: www.propertymark.co.uk/acreport

APPENDIX B – ARLA INVENTORIES CODE OF PRACTICE

Introductory Notes:

- The Divisional Council of the Association of Residential Letting Agents (ARLA) has approved this Code of Practice for ARLA Inventories. It helps underpin ARLA Propertymark's commitment to promoting the highest standards in the letting and management of private residential property.
- Membership of ARLA Inventories is available to individuals engaged in the provision of Inventories who are partners, principals or employees of specialist Inventory Providers, and individuals employed by residential letting agents whose primary responsibility is the provision of Inventories.
- This Code of Practice is not intended to be a step-by-step guide to dealing with an inventory but sets down what good practice should be in key areas. Specific processes, procedures, obligations, or responsibilities may vary depending on individual Terms of Business and the relevant Tenancy Agreement.
- Where a formal written complaint is made against a Member, any such complaint will be considered against the guidance contained within this Code of Practice combined with the Propertymark Conduct and Membership Rules. A Member following these practices, complying with the aforementioned rules, and fulfilling contractual obligations, is thereforeunlikely to be found to have acted without reasonable competence. Where a Member has not complied with this Code of Practice or contractual obligations mentioned above, they would be expected to justify such departures in the light of any complaint.

Aims of this Code of Practice:

1. To help to ensure that Landlords, Tenants, and Members are aware of the expectations of standards of service that Members strive to provide both through ARLA Propertymark and ARLA Inventories.

2. To help to maintain and enhance the reputation, standing, and good name of ARLA Inventories and, through it, ARLA Propertymark, and their memberships by promoting goodpractice and protecting the public against fraud, misrepresentation, and malpractice in the letting industry.

A. General

1. A Member must take reasonable steps to ensure that they are conversant with all aspects of this Code of Practice and the Propertymark Conduct and Membership Rules and have an up to date working knowledge of their legal responsibilities and obligations in dealing with Clients, applicants, and tenants, appropriate to their job role.

2. A Member must offer equality of professional service to any person regardless of race, creed, sex, sexual orientation, disability, or nationality. A Member must not knowingly be a party to discrimination by others in the performance or provision of services.

3. A Member must always act in a fair and impartial manner and produce objective assessments of the contents and condition of properties. A Member must not act or behave in a way or manner that knowingly involves dishonesty or deceit.

4. Members who make public their personal views on matters relating to the private rented sector must not claim, or give the impression, that they are representing the official view or policy of ARLA Inventories.

5. A Member Firm must assist ARLA Inventories, or any duly authorised representative or adjudicator, in its enquiries into any alleged breach of this Code or relevant aspects of the Propertymark Conduct and Membership Rules.

B. Data Protection Act

1. A Member must, as required by the Data Protection Act (1998), register their firm's activities, as and when appropriate, with the Information Commissioner via www.ico.org.uk.

2. A Member must be aware of its obligations relating to the obtaining, recording, holding, or disclosing of personal data and have suitable systems and controls to comply with the eight general principles of the Act which states that such personal data must be:

- **a.** Fairly and lawfullyprocessed
- **b.** Processed for limited purposes
- **c.** Adequate, relevant, and not excessive
- **d.** Accurate, not kept longer than necessary
- **e.** Processed in accordance with the data subject's rights
- **f.** Secure
- **g.** Not transferable to other countries without adequate protection.

3. A Member must not release confidential or sensitive personal information to unconnected third parties without permission or unless legally required to do so, including for example, on the appropriate authorised written request from the Police, Local Authority or HMRC where a crime, fraud or a breach of relevant legislation is suspected or under official investigation.

C. Terms of Business, Instructions, Fees & Charges

1. A Member must give a (potential) Client written details of their Terms of Business setting out what distinct types or levels of service are available, and all relevant Fees and Charges before the Client is committed to or has incurred any liability. A Member should confirm in writing the Client's instructions to act on their behalf and which type or level of service is being provided.

2. The Terms of Business used by a Member must be clearly presented, written in plain and intelligible language, and endeavour, where appropriate, to take account of the implications of the Unfair Terms in Consumer Contract Regulations (1999) and Consumer Protection from Unfair Trading Regulations (2008) if applicable. (Members should note that standard terms orclauses, or fees and charges, deemed unfair by the court under these regulations are unenforceable.)

3. The Terms of Business of a Member must include clear and accurate information regarding the circumstances under which either party to the contract may cancel or terminate the arrangement and what liability for fees or charges may be incurred in those circumstances.

D. Access to Property

1. When access to the property is required by the Member (say for the purpose of viewing the condition, state of repair and/or to fulfil related statutory obligations) the occupying tenant must be provided with the appropriate minimum notice, prescribed by law, of the appointment unless agreed otherwise with the occupying tenant beforehand (except in cases of genuine emergency). It is the duty of the Member to satisfy themselves that such notice has been properly given to the tenant before they enter the property.

2. A Member must exercise due diligence to ensure that a property is left secure after any visit by a Member (or at least as secure as it was prior to the visit).

3. A Member must make sure that all keys held on behalf of Clients are suitably coded and kept secure. Records of the addresses of such keys must be kept separate from the actual keys and kept safe.

4. A Member must maintain a record or log of when and from whom keys are collected and when they are returned. A Member must take reasonable steps to ensure that keys are givenonly to suitably authorised people who have provided satisfactory identification.

5. A Member must take steps to ensure that appropriate office procedures are in place to provide for the well-being of staff when on appointments away from the office.

E. Inventories

1. A Member should ensure that upon appropriate instructions from the Client at commencement of a tenancy, any Inventory/Schedule of Condition prepared for the Client by the Member **clearly displays their name and ARLA Inventories Membership number**, is sufficiently detailed, and up to date, as far as is within their control, to allow it to be used as a fair measure of the condition of the property at the end of the tenancy.

2. An inventory should be prepared to a minimum standard as contained in "A Guide to Best Practice for Inventory Providers" which provides a format as well as guidance. Members must ensure that they are familiar with all aspects of this Guide and should be aware that complaints will be assessed against compliance with the Guide as well as this Code of Practice.

3. Reference should be made in the Inventory documentation to the Guide standards and best practice contained within this Code of Practice in case of dispute.

4. A Member should not have any financial connection with a maintenance, cleaning, or similarcontracting company.

5. A Member should be fully conversant with the procedures concerning the assessment of damages and the apportionment of the deposit at the end of the tenancy as contained in "A Guide to Best Practice for Inventory Providers." The Member is expected to provide as much cooperation as may reasonably be expected to all parties involved in this process.

6. A Member is expected to co-operate and comply fully and promptly with any independent alternative dispute resolution process (such as The Tenancy Deposit Scheme) invoked by the landlord and tenant.

F. Complaint Handling – Members' Internal Procedures

1. As set out in the Propertymark Conduct and Membership Rules, a Member must have an in-house complaints procedure (appropriate to its size and structure) and any person wishing to make a formal written complaint about the standards of service received must be made aware (in writing) of those procedures upon request. Following the conclusion of the Member Firm's in-house complaint process, where an impasse has been reached or a complainant remains unsatisfied; the complainant must be informed of the contact details for ARLA Inventories should they wish to pursue their complaint.

2. ARLA Inventories Members must have Professional Indemnity Insurance and Public Liability Insurance at levels and scope of cover set, from time to time, by the ARLA Inventories or be

covered under the policies held by their employer. Where a Member feels a complaint or allegation is likely to result in formal legal action/claim against the firm, the Member should promptly inform their Insurers in line with the arrangements between them.

G. Complaints Handling – Referrals to ARLA Inventories

ARLA Inventories will not normally consider a complaint until it is satisfied that the complainant has exhausted a Member's own internal complaints procedures, or if the matters are subject to formal legal action.

1. Members must comply promptly and fully with any investigation or assessment of a complaint or dispute conducted by ARLA Inventories or its appointed adjudicator, expert, or arbitrator.

2. Members must, subject to any appeal process, comply with the result, recommendations, orrequirements of the evaluation of a complaint or dispute conducted by ARLA Inventories orits appointed adjudicator, expert, or arbitrator.

3. Sanctions available to ARLA Inventories are set out in the Propertymark Sanctions Policy (as amended from time to time) and within the Complaints Form leaflet. These sanctions are subject to variation but generally include: -

- **a.** To recommend that the Member apologise, in writing, to the appropriate person for the relevant conduct, action(s) or omission(s).
- **b.** To caution the Member against repeating the conduct, action(s), or omission(s).
- **c.** To recommend to the Member that they refund all or some part of fees or charges previously made, in recognition of the conduct, action(s) or omission(s).
- **d.** To impose a financial penalty or fine (which may be suspended) upon the Member for the contravention, breach, or infringement, according to a scale decided upon from time to time by ARLA Propertymark/ARLA Inventories.
- **e.** To recommend that the Member change its procedures or documentation arising from the facts disclosed by a complaint, breach, or infringement, which has been upheld.
- **f.** To recommend that the Member undertake such action as ARLA Inventories considers appropriate to rectify or redress the conduct, action(s), or omission(s).
- **g.** To recommend to the parties other, more appropriate, ways of resolving the complaint or dispute including mediation or arbitration.
- **h.** To reprimand or severely reprimand the Member for the conduct, action(s), oromission(s).
- **i.** To suspend the Member from membership of ARLA Inventories.
- **j.** To expel the Member from membership of ARLA Inventories.
- **k.** Any combination of the above or any other reasonable action which ARLA Inventories feels appropriate in order to support high standards within the industry and amongst its membership.

H. Glossary

Please Note: - These are not legal definitions and are provided simply by way of explanation to help clarify understanding and interpretation of some of the words, terms or expressions used in this document.

Propertymark Conduct and Membership Rules	The detailed rules of Propertymark which incorporate this Code of Practice (available on www.propertymark.co.uk); the criteria for membership of ARLA Inventories; disciplinarypowers and procedures, including those relating to complaints; the requirements of member firms in regard to Professional Indemnity Insurance and Public Liability Insurance; the use of the ARLA Inventories logo which is protected by trademark; and other matters.
A Member	Any individual who is a current full member of ARLA Inventories and thus regulated by the Propertymark.
Terms of Business	A document which is the basis of the contractual arrangement between the Client and the Member, setting out what services are available to be provided for various fees or charges.
Tenancy Agreement	A legally binding document, which creates the contract between Landlord and Tenant and governs the respective obligations and responsibilities of both parties.
Client(s)	The person or persons (or company) who have exercised their lawful authority to instruct a Member to act on their behalf.
Tenant(s)	A person or persons who at any relevant time have thelawful right to occupy a property, under the terms of a tenancy agreement, for which rent is usually paid.
Landlord	A person or persons (or company) who at any relevant time, own, or have a formal interest in, the property that gives them the right to possession of that property.
Inventory/Schedule of Condition	In the lettings industry these are encompassed in, and considered to be, one document. An 'Inventory' is an itemised listing of the items (contents, fixtures, and fittings etc,) in a property and the integral 'Schedule of Condition' element describes the state of the property, including walls, floors, ceilings and externally, the garden and garage, and their (the items), state.
Unfair Terms in Consumer Contract Regulations (1999)	These regulations require that where there is a contract between two parties (a supplier and an individual consumer), the standard terms and clauses of that contract are in plain and intelligible language and are balanced and fair so as not to unduly penalise, mislead, or restrict the rights of the consumer.
Inventory Provider	A person with appropriate experience and/or training, who prepares an Inventory/Schedule of Condition prior to commencement of a tenancy; checks the document at the end and prepares a summary of disrepair or damage etc and updates the document as appropriate before re-letting.
Public Liability Insurance	Insurance held by a Member or company to cover claims made for injury or damage caused to someone or something whilst in or around a relevant property.
Professional Indemnity Insurance	Insurance cover which each Member is required to hold as a condition of membership, to provide indemnity against claims for compensation by Clients who sustain a financial loss arising out of professional negligence by directors, partners, or employees in the conduct of their business.