ASSOCIATION OF TECHNICAL MONITORING AGENTS

# Competition Policy: Code of Conduct

**This Code of Conduct is followed at ATMA meetings.**

The ATMA has determined that its activities shall not contravene free and lawful competition and that EC law will be strictly complied with. To ensure strict compliance with the UK and EC competition laws, all ATMA meetings and other activities must be conducted in accordance with this code.

Each meeting will commence with acknowledgement of this Code.

**ATMA Objectives are to:**

- To promote the role of technical monitoring agents within the United Kingdom government energy efficiency schemes and the wider industry
- To establish training and qualification for technical monitoring inspection within domestic energy measures
- To establish and maintain contact with statutory administrative (DECC and Ofgem) authorities with responsibility for technical monitoring and to assist their work
- To establish positive interaction with Energy UK and the obligated parties of the government's energy efficiency schemes
- To disseminate to the Members of the Association and Users technical monitoring such information as is considered applicable to good practice in the industry
- To initiate educational activities in technical monitoring
- To provide means of communication between technical monitoring agents
- To undertake all such public relations activities as may be required to ensure that the objects of the Association are widely known
- To provide guidance to Members for the conduct of the industry
- To protect the interests of the technical monitoring industry
- To do all such other things as are conducive to the attainment of these objectives

ATMA's role is to promote and protect the interests of its members and to provide a forum for industry discussions and development of policies. It will abide by the laws of free and fair competition at all times and will continue to advise and guide members as to rules and conduct under existing competition laws.

In the pursuance of this, members agree not to:

- Fix purchase or selling prices or other trading conditions
- Limit or control production, markets, technical development or investment
- Apportion markets or supply sources between themselves
- Apply different trading conditions to equivalent transactions, thereby placing some parties at a competitive disadvantage
- Make contracts subject to unrelated conditions

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**In the pursuance of this, members agree to:**

- So far as reasonably practical, abide by the Ofgem ECO Guidance and any other standards relevant, for example PAS2030
- Abide by the law of the land
- Not undertaken any activities which may harm the reputation of ATMA or the Technical Monitoring Industry as a whole, including but not limited to
- Breaching Ofgem guidelines on independence
- Failing to visit a property in person when undertaking a Technical Monitoring inspection (with the exception of Ofgem approved remote re-inspections)
- Failing to ensure the safety of its own workforce or the occupants of a domestic premises
- 'Re-selling' a completed inspection to a 3rd party without the written and proper consent of the original purchaser unless previously approved by Ofgem
- Abusing the ATMA brand or using it without permission for ATMA itself
- Have robust documented methodology for selection of Technical Monitoring results where a sub-selection of results is required for the purposes of meeting a third party's requirements. This essentially means is that the member TMA must have a robust method of randomly selecting TM results from a pool or batch of inspection results. i.e. where a utility requires 5% monitoring, but the TMA has undertaken more than this (up to 100%) then the selection must be random and not exclude any results from the potential pool, especially failures. Or at least be reflective of the Pass/Fail rate for the pool as a whole
- ATMA will rely on its members own Management Systems to ensure that this is instigated, however ATMA reserves the right to audit its members to ensure compliance and take action where non- conformities are encountered
- Ensure that they have a robust audit process to review an individual inspector's results. Under the ATMA Competency Scheme, ATMA will have the right to investigate an individual's results if concerns are raised from a third party"

**Abide by ATMA's Code of Conduct on Competition on Technical Monitoring listed below;**

In addition, members of ATMA also agree never at any time to exchange information, discuss, reach tacit or express agreements or understandings on any competitive issue among themselves, including the following:

- Individual costs of production, sales, logistics or distribution
- Marketing policies and strategies
- Production and sales figures
- Prices - including any opinion as to the acceptable level of prices generally prevalent on the market or applied by any competitor
- Discount and rebates - including any comment on the excessive nature of rebates, or, for example, on the fact that certain competitors would be "destroying the market"
- Projected or actual price increases or reductions - including any opinion as to the desirability of a price increase
- Actual or potential customers - including any comment on the quality of specific customers or any comment on the marketing policies of any customer

Through adherence to this Code members will continue to derive benefit from involvement in ATMA meetings and discussions and other activities and services of the Association in the knowledge that this code of conduct is being strictly applied at all times.

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# Notes on Competition Policy

As the ATMA is registered in the UK it will be specifically subject to the Competition Act 1998 which came into force on 1st March 2000. The UK regulatory authorities have strengthened powers to investigate undertakings believed to be involved in anti-competitive activities and to impose heavy financial penalties where appropriate. The Act is modelled on the European competition law set out in Articles 81 and 82 (formerly Articles 85 and 86) of the EC Treaty.

It is designed to ensure compliance with the Act in particular taking note of the Chapter 1 prohibition, which states that: "Agreement between undertakings, decisions by associations or undertakings or concerted practices which prevent, restrict or distort competition, or are intended to do so, and which may affect trade in the United Kingdom are prohibited."

The Chapter 1 prohibition applies only if the relevant decision, rule, recommendation or other activity has an appreciable effect on competition in the relevant UK market. In the normal course of business, undertakings exchange information on a variety of matters legitimately and with no risk to the competition process. Indeed, competition may be enhanced by the sharing of information, for example, on new technologies or market opportunities. The collection and publication of statistics are also legitimate functions of associations or undertakings, as are benchmarking exercises, as long as they have no appreciable effect on competition, e.g. information cannot be desegregated and individual participants identified.

Codes of Conduct e.g. for dealing with customer complaints or standard terms and conditions used to introduce best practice are less likely to appreciably effect competition if the structure of the market is competitive and if members are not obliged to adopt the codes.

Technical standards negotiated and promulgated through an Association can affect competition by limiting the products or services offered but effects on competition would not always be appreciable e.g. if entry barriers were not significantly raised.

If the combined market share of those in the agreement is less than 25%, this is unlikely to have an appreciable effect. Exceptions to this are agreements which directly or indirectly fix prices; impose minimum resale prices; or are one of a series that can have a cumulative effect.

Signature: _____

Company: _____

Date: _____

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