



Independent Contractor Home Energy Survey Professional Auditor Agreement

THIS HOME ENERGY SURVEY PROFESSIONAL AUDITOR AGREEMENT is made as of the

_____ day of _____, 20____, by and between Green Training USA, a Delaware Limited Liability Company, and _____ individually, (hereinafter referred to as “the Auditor”).

WHEREAS, Green Training USA is a certified RESNET Home Energy Survey Professional (hereinafter referred to as “HESP”) Provider and the Auditor desires to be a RESNET certified HESP auditor.

NOW, THEREFORE, in consideration of the premises and of the terms and mutual covenants herein, the sufficiency of which is hereby acknowledged, the parties agree as follows:

Article I — Definitions

1.1

Green Training USA, a HESP Provider, provides a uniform method of auditing and assessing energy surveys as per RESNET 2006 Mortgage Industry National Home Energy Rating Systems Standards.

1.2

“Documentation” shall include all manuals, guides, data collection forms, instructions, standards, policies and practices and written correspondence produced or provided by Green Training USA.

1.3

“Energy Survey” shall mean the process of providing to a customer an In-Home Energy Survey as defined in Chapter Seven (7) of the RESNET Standards.

1.4

“Client” shall mean the customer who engages the Auditor for an In-Home Energy Survey or a Diagnostic Home Energy Survey.

1.5

National HESP Examination shall mean the national Home Energy Survey Professionals examination administered by RESNET.

1.6

“RESNET Standards” shall mean RESNET 2006 Mortgage Industry National Home Energy Rating Systems. These Standards are found at: www.natresnet.org/standards/mortgage-RESNET_Standards-2006.pdf.

1.7

“Operation Policies” shall mean the Green Training USA Policies and Procedure Manual, attached hereto as Exhibit A.



Article II — Auditor Responsibilities

2.1

Standard of Performance. The Auditor shall diligently perform all the services set out by this Agreement and in accordance with Green Training USA documentation and the RESNET Standards.

2.2

Energy Surveys and Reports. The services provided by the Auditor to clients for delivery of surveys shall be in accordance with the RESNET Standards. Auditor shall use the RESNET approved Green Training USA computer generated two page survey form. Written reports to clients for the surveys shall be consistent with the report format contained in the Green Training USA documentation. The Auditor shall have the option to utilize the Diagnostic Report facility provided by Green Training USA or the Auditor's proprietary report, so long as the written report complies with RESNET Standards. The Auditor shall retain a copy of each survey for no less than three years.

2.3

Continuing Education. The Auditor shall comply with the Continuing Education requirements of RESNET, which is a condition of the HESP RESNET certification. RESNET requires HESPs to have twelve (12) hours of continuing education and training units approved by the provider in every (3) year period.

2.4

Code of Ethics. The Auditor shall comply with the RESNET Code of Ethics, a copy of which is attached herewith as Exhibit B.

2.5

Client Complaint Resolution. The Auditor shall deal with clients in a fair, honest and equitable manner. The Complaint Response Process procedure of Green Training USA is attached hereto as Exhibit B and the Auditor shall make every effort to resolve each complaint. Having three unresolved customer complaints in one fiscal year shall be grounds for suspension of the certification and retraining, or revocation of the certification, as determined by Green Training USA.

2.6

Conflicts of Interest. Auditors shall be prohibited from having any conflict of interest with respect to client services, although this shall be waived by Green Training USA if the Auditor provides advance notice to client of the potential for such a conflict of interest.

The "Home Energy Survey Standard Disclosure" form, which has been adopted by RESNET, shall be completed for each home that receives a Home Energy Survey. The form shall be provided to the HESP's client prior to commencing an Energy Survey. Each form shall accurately reflect the proper disclosure for the home that it represents. For the purpose of completing this disclosure, "survey professional's employer" includes any affiliate entities. A copy of each disclosure form shall be retained by the Auditor for no less than three years from the date of the survey report and a copy shall be made available to Green Training USA upon request.

2.7

Confidentiality. The Auditor shall keep confidential all energy surveys and diagnostic reports and all information gathered from its energy survey clients with the exception of individuals delegated by the Auditor to perform audits, to perform diagnostic testing and to enter data into report software.

2.8

Quality Assurance. The quality assurance program of Green Training USA shall be managed by Guaranteed Watt Savers, Inc. (hereinafter referred to as "GWS"). The quality assurance designee is Rogge Miller. The designee is responsible for the internal review of surveys and diagnostic reports submitted by the Auditor. The Auditor shall have ten percent (10%) of all survey reports reviewed annually for quality assurance.

2.9

RESNET Test. As a precondition to execution of this Agreement by Green Training USA and issuance of the HESP certification by Green Training USA, the Auditor shall furnish to Green Training USA written evidence that the Auditor has passed the national Home Energy Survey Professionals examination administered by RESNET.



2.10

Independent Contractor Relationship. In the performance of their obligations under this Agreement, except as otherwise set forth in this Agreement, it is mutually understood and agreed that the parties at all times acting and performing as independent contractors with, and not as franchisor-franchisee, employees, joint venturers or partners. The Auditor, as an independent contractor, is in no way authorized to make a contract, agreement, warranty, or representation on behalf of Green Training USA or to create any obligation, express or implied, on behalf of Green Training USA.

2.11

Business Control. Green Training USA shall have no control over the Auditor's business operations other than the specific rights provided in this Agreement, which are included solely for the purpose of protecting the intellectual property of Green Training USA.

2.12

Standards of Operation. The Auditor shall comply with the Green Training USA Policies and Procedures Manual.

2.13

RESNET Membership. Within thirty (30) days of execution of this Agreement by the parties hereto, the Auditor shall join RESNET and shall keep its membership current and active during the term of this Agreement.

Article III — Use of Trademark/Trade Name

3.1

Ownership of Names and Intellectual Property. The name "Home Energy Team Institute" and "Green Training USA", and the Intellectual Property relating to the same, are trade names, trademarks and service marks of Green Training USA. No use of the Intellectual Property may be made without the express written consent of Green Training USA as set forth in this Agreement.

3.2

Additional Terms and Conditions:

- a. The Auditor may not alter the Intellectual Property in any manner.
- b. The Auditor may not use the Intellectual Property on any website or other location that disparages Green Training USA or its products or services, infringes on Green Training USA Intellectual Property or other rights, or violates any state, federal or international law. The use of the Intellectual Property must be truthful and not misleading.
- c. The Auditor shall not use the Intellectual Property to imply any relationship with or endorsement or sponsorship by Green Training USA that is not true.
- d. The Auditor may not display the Intellectual Property by itself and not use the Intellectual Property as a feature or design element of any other Intellectual Property or any other name or trademark.
- e. Green Training USA reserves the right to approve or disapprove the use of the Intellectual Property on the Auditor's website to ensure that it complies with these policies.

3.3.

Warranties. Green Training USA disclaims any warranties that may be expressed or implied by law regarding the Intellectual Property, including warranties against infringement. The Auditor agrees to indemnify Green Training USA from and against all claims and liabilities arising out of its use of the Intellectual Property.



Article IV — Price and Payment

4.1

Annual and Other Fees. The Auditor shall pay to Green Training USA annual and other fees as shown on the attached Price Schedule, attached hereto as Exhibit C.

4.2

Expenses of Quality Assurance. GWS is responsible for complying with the quality assurance obligations of Green Training USA with respect to ensuring that the Auditor complies with RESNET survey and diagnostic practices and procedures. In the event any field monitoring is required by RESNET as a condition to maintaining the Auditor's HESP or Diagnostic certification, the Auditor shall reimburse GWS for any expenses associated with such quality assurance.

4.4

Failure to Pay. Failure of the Auditor to pay any fee or fees imposed under this Agreement, including any quality assurance fees imposed by GWS, within thirty (30) days of such payment due date shall be deemed a material breach of this Agreement and shall entitle Green Training USA at its sole option, to (1) impose an interest charge on any such unpaid amounts at the highest rate allowable under Virginia law and/or (2) immediately terminate this Agreement and revoke the RESNET certification of the Auditor.

Article V — Termination

5.1

In the event the Auditor commits a material breach of this Agreement, then the Agreement shall be terminated and all rights and interests conferred upon the Auditor hereunder shall be extinguished.

5.2

All confidentiality obligations of the parties hereto shall survive termination or expiration of this Agreement for a period of three (3) years.

5.3

Either party may terminate this Agreement at any time for any reason with thirty (30) days prior written notification of its intent to do so.

5.4

In the event of any termination pursuant to this Article V, any and all fees paid by the Auditor shall be retained by Green Training USA and shall neither be returned in full nor prorated for any partial refund.

Article VI — Limit of Liability

6.1

Neither party shall be liable to the other for any special or consequential damages of any character, including without limitation, damages for loss of good will, work stoppage, data loss, lost profit or computer failure. Green Training USA liability to damages arising out of the performance or breach of this Agreement shall not exceed the total annual certification fee paid by the Auditor under this Agreement.



Article VII — Arbitration of Disputes

7.1

Arbitration. Any controversy or claim arising out of or relating to this Agreement, or its breach or its validity or interpretation, except, (i) claims by a party that the other party has failed to pay it any sums due under this Agreement, shall be settled with the then current rules (“Rules”) for arbitration of the American Arbitration (“AAA”) subject to the following:

- a. The location for the arbitration shall be at such location as agreed by the parties in Fairfax County, Virginia, or if the parties cannot agree on such a location, at a location in Fairfax County, Virginia selected by the AAA.
- b. One arbitrator shall be selected pursuant to the then current rules.
- c. To the extent any discovery is allowed by the arbitrator, the same shall be limited in nature so as to be consistent with the purposes of the arbitration.
- d. The arbitration award shall be binding on the parties and may be enforced in any court of competent jurisdiction.
- e. The arbitrator shall have the authority to award any damages allowed by or under Virginia law except punitive damages. Each party hereby waives the right to recover punitive damages.
- f. In resolving all disputes between the parties, the arbitrator will apply the laws of the Commonwealth of Virginia and/or applicable Federal law, as the case may be.

Article VIII — Miscellaneous

9.1

Each party agrees it will perform its obligations hereunder in accordance with all applicable laws, rules and regulations now or hereafter in effect. If any provision of this Agreement shall be found to be illegal or unenforceable, then notwithstanding such a finding, this Agreement shall remain in full force and effect and the illegal or unenforceable provision shall be deemed stricken.

9.2

Neither party shall be liable for delays in performance or non-performance under this Agreement caused by such events as fires, power failures or surges, strikes, riots, war, governmental regulation, failure of third parties, acts of God or, without limiting the generality of the foregoing, causes beyond the parties’ control.

9.3

The headings used in this Agreement are for reference purposes only and shall not be deemed a substantive part of this Agreement.

9.4

This Agreement and the obligations required hereunder shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

9.5

No Amendment or waiver of any provision of this Agreement shall be effective unless the same shall be in writing and signed by the authorized representative of each party. Any waiver or consent given by the parties shall be effective only in the specific instance and for the specific purpose for which it is given.

9.6

This Agreement and any addendum signed by both parties and attached hereto constitute the entire Agreement between the parties and supersede all proposals or prior agreements, whether written or oral, regarding the subject matter of this Agreement. The person signing this Agreement on behalf of the respective parties has been properly authorized and empowered to do so.



9.7

Any notice required or permitted to be given hereunder the Auditor shall be sent by certified or registered mail at the address on the Auditor’s application for certification as amended from time to time. Any notice to be sent to Green Training USA shall be mailed to:

Green Training USA
P.O. Box 693
Frederick MD 21705

9.8

Term of this Agreement. This Agreement shall be for a term of (3) years from the date of execution hereof, unless extended in writing at the time of recertification of the Auditor.

9.9

Insurance. The Auditor shall have and maintain during the life of this Agreement, General Liability Insurance in an amount no less than \$300,000 for each incident and, at the sole discretion of the Auditor Professional, Errors and Omissions Insurance (unless a mandatory requirement by the Auditor’s certification organization). The Auditor shall deliver to Green Training USA, within ten (10) days of execution of this Agreement, certificates of insurance as proof of such insurance and showing Green Training USA as an Additional Insured Party.

IN WITNESS WHEREOF, the parties caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

Green Training USA

Auditor:

Authorized Representative

Dallas Jones

Printed Name

Printed Name

Date

Date

Auditor Number:
Green Training USA #