

# URGENT NOTIFICATION

I am required by the Board of Directors of Faero Ltd. to inform you that, at a Board Meeting held on the 22<sup>nd</sup> August 2007, the Board unanimously agreed that Faero Ltd. should immediately cease to trade, and proceed towards corporate dissolution. I have set down below both the history and recent information that have led the Board of Directors to take this step:

## 1. History

Faero Ltd, incorporated on 21<sup>st</sup> February 2006, was established at the request of Government (ODPM, now CLG) to provide an industry-based standard setting body governing the energy rating of dwellings. ODPM's request came after many years of lobbying by the Quality Assured Energy Rating industry, including the then Federation of Authorised Energy Rating Organisations, which had been formed to promote the benefits of quality assured energy ratings. It was seen by these lobbying organisations as recognition by Government that the EU Directive on the Energy Performance of Buildings required the establishment of a mechanism for quality assuring the delivery of energy performance calculations and certificates to a set standard.

Faero Ltd was created as a single body to gain approval as a Competent Persons scheme overseeing the delivery of energy calculations for Building Control purposes, because CLG insisted that they would only consider an application from an industry body - not separate applications from the existing providers of quality assured ratings. The then Federation fully supported this approach, as it meant that the scheme could be fully inclusive, rather than be restricted to the previously authorised AEROs. Other SAP software providers which did not currently offer quality assured ratings would be encouraged to seek membership of Faero Ltd's scheme, to the benefit of all – Building Control, clients, and consumers purchasing their new home.

The Faero Ltd Competent Persons scheme was formally recognised in Building Regulations for the purpose of delivering calculations required by Regulation 17c. This restriction was due to the legal options then available to CLG for the recognition of Competent Persons schemes, which at that time did not provide an option to recognise persons for the creation of Energy Performance Certificates. However, it was always accepted by the CLG officers then involved that what was being established was the groundwork for the delivery of EPCs. It was consistent with the conclusion of DIAG's Article 7/10 Advisory group, which had been convened at the request of CLG and had reported during 2005 on the appropriate methods for delivering against these two articles.

In point of fact, the legal restriction that prevented the scheme from being immediately recognised for EPC delivery was the cause of the extensive delay in initially commencing operations. The two Departments involved, CLG and Defra, took contrary positions on this, with Defra wishing to see the inclusion of EPCs in Faero Ltd's remit. Protracted negotiations with CLG and Defra during the latter half of 2006, eventually resulted in an agreement that Faero Ltd would only need to contract with CLG, freeing the way for Faero Ltd and CLG to agree their operational terms based on CLG's preferences.

At that time, Faero Ltd would have wished to see a formal agreement that its scheme would in due course be extended to deliver EPCs. This was not forthcoming, and following reassurance from CLG's officers, a decision was taken to commence operation on the terms offered, and to work with CLG to enable the scheme to be extended to include EPCs at the appropriate time.

## 2. Recent Events

Whilst Faero Ltd did not formally sign up its first Scheme Members until April 2007, and began to register Competent Persons from that date, it had been working with CLG from the very start of 2007 to establish the necessary protocols for extending the scheme into EPCs.

Preliminary meetings with CLG were held on the 22<sup>nd</sup> January, 8<sup>th</sup> February and 20<sup>th</sup> April with each meeting attended by senior CLG personnel.

After each meeting, Faero Ltd. submitted the information that had been requested by CLG, but did not receive any formal response. We were concerned about both lack of response and lack of progress, and so we asked for a meeting at more senior level. This took place on 26<sup>th</sup> June.

At this meeting we outlined our concerns regarding emerging draft proposals for approving accreditation schemes for individuals to issue EPC on construction of dwellings. Specifically, Faero Ltd. was concerned that organisations could be approved that were not members of Faero Ltd's scheme nor any equivalent Competent Persons scheme. Such organisations would therefore not be subject to industry regulation to ensure that they operated to the standards previously agreed with CLG as being necessary. Equally, they would not be subject to the cost of operating an industry-financed regulatory framework and the development of standards.

In essence, CLG were proposing that persons accredited to issue EPC for on construction dwellings would NOT need to be competent for the purposes of Regulation 17c, nor would they need competence in advising homebuilders on improving the energy performance of their proposed dwellings. Together, their drafts seemed to indicate a significant reduction of standards for EPC certifiers, compared with Faero Ltd's system.

We did not consider this to be in the interests of consumers or the industry and we wrote to CLG on 28<sup>th</sup> June stating that:

*To ensure consistent quality of SAP ratings for the production of Energy Performance Certificates for new homes, CLG must ensure that directly authorised accreditation schemes all:*

- *Work to the same technical standards*
- *Contribute to the cost of their development*
- *Pay for the cost of their enforcement*

*If this undertaking cannot be given, and other schemes are allowed to operate to different standards, the work already undertaken to create these standards will have been wasted. The consumer (in this case, the housebuyer) will not be protected from poor quality Energy Performance Certificates, with the inevitable result of a loss of confidence in these*

*Certificates. This will lead to a failure to provide their intended purpose, i.e. of bringing consideration of the energy performance of the home into the purchasing decision.*

*If you are prepared to work with Faero Ltd. to avoid this, we need to meet again without delay to consider our options.*

We did not receive a reply to this letter, and in spite of subsequent follow up letters on the 17th July and the 20th August there has still been no reply. In our letter of 17th July we stated that Faero Ltd. was unlikely to be in a position to submit an application to run an accreditation scheme unless we could meet quickly to explore solutions to the three issues previously identified. An informal meeting was held on 7th August, at which Faero Ltd. was given some verbal reassurances, but these did not resolve the identified issues and they were not confirmed in writing.

### **3. The Basis of the Board Decision**

As a result of the above, the Board of Faero Ltd has now concluded that the actions taken by CLG, in significantly reducing the requirements for EPC certifiers, have fatally compromised the commercial viability of Faero Ltd. In short, CLG intends to recognise as EPC certifiers, individuals who may have lesser skills than Faero Ltd's registered Competent Persons, and these individuals will, almost certainly be seen in the market as the equivalent of a Competent Person. Consequently, the Board believes it is unrealistic to expect Building Control bodies to discriminate between Faero Ltd. registered Competent Persons and individuals accredited for the provision of on construction EPC for dwellings.

The Board is fully aware of the adverse publicity its decision will generate, but it believes that it would be wholly imprudent and disingenuous towards current and prospective Members to continue trading given the negative and contradictory actions taken by CLG. Faero Ltd. will do all that it can to protect the interests of its Members and Pre-Registered Members, and will advise them as soon as possible of the intended course of action regarding corporate dissolution and the distribution of any surplus.

**By Order of the Board,  
Richard Theobalds  
Company Secretary  
22<sup>nd</sup> August 2007**