



BFRC SCHEME RULES

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INTRODUCTION

These are the Rules of the Energy Rating Licence operated by British Fenestration Rating Council Limited ("BFRC"). BFRC is a wholly owned subsidiary of The GGF Group. Please note: Registered Businesses are not shareholders in BFRC or The GGF Group.

The BFRC Scheme has been developed to license the use of energy ratings certificates and associated labels in order to demonstrate the energy performance of fenestration products sold for installation within the UK. It is designed to allow consumers to easily compare the relative performance of fenestration products and is accepted as a means of demonstrating compliance with Building Regulations.

BFRC is established to issue energy rating licences and maintain procedures under which Registered Businesses are permitted to apply the BFRC energy rating mark to their products. BFRC also certifies simulator operatives to enable them to carry out fenestration ratings calculations for the purposes of the BFRC Scheme and carries out inspections and other measures to ensure the compliance by Registered Businesses with these Rules.

BFRC offers the following four categories of registration under the BFRC Scheme:

- Fabricator
- System House
- Authorised Retailer
- Certified Simulators

Note: The BFRC Scheme requires all energy calculations to be carried out by BFRC Certified Simulators. Certified Simulators are required to enter into a separate Certified Simulator Agreement with the BFRC

These Rules constitute a binding agreement between BFRC and each Registered Business.

DEFINITIONS

In these Rules the following terms shall have the following meanings:

“BFRC Rating Licence”: gives the licensee the right to state a BFRC approved energy rating. The licence details the conditions under which the claimed rating is achieved.

“Energy Rating Label”: – A Standard BFRC adhesive label which can be applied to the product for which the artwork is supplied by BFRC.

“Permanent Mark”: – a small tamperproof label or permanent stamp which is to be discreetly placed within the opening section of any frame.

“Certified Simulator”: - an individual who has been assessed as competent to carry out fenestration ratings calculations on behalf of BFRC for the purposes of the BFRC Scheme and who remains party to a valid Certified Simulator Agreement with the BFRC.

“System House”: –a business which manufactures and/or supplies system profiles

“Fabricator”: –a business which manufactures and assembles system profiles to produce a completed frame and/or window, and who may also place the product to market. Note: a System House may also be a Fabricator.

“Authorised Retailer”: – a business which supplies a Fabricator's products and which may be responsible for the addition of glazing and accessories and may complete installation. These may be trade counters and/or suppliers to consumers.

“person”: an enterprise or individual acting as a business.

“Energy Rating Report”: An energy rating[s] report produced by a BFRC Certified Simulator in accordance with the BFRC Simulator Manual.

"Data": means the Registered Business Data and Third Party Data collected by BFRC from the Registered Business;

“Intellectual Property”: means the intellectual property rights of whatever nature including goodwill and copyright.

“Losses”: means any and all damages and losses, liabilities, judgements, demands, fees, costs, expenses (including legal fees and disbursements on a full indemnity basis) and including the following categories of loss and damage whether foreseeable or otherwise and howsoever caused: (A) loss or damage (whether direct or indirect) of or to a business, profit, revenue, reputation or goodwill and anticipated savings; and (B) any incidental, indirect, special, consequential or punitive loss or damage.

“Term”: means the period from initial certification date of publication of the licence to its termination date as specified on the Licence.

“Territory”: means the global market.

"DECC": the Department of Energy and Climate Change (and any successor body thereto performing similar functions);

"DPA": the Data Protection Act 1998, including all amendments and secondary legislation related thereto and codes of practice issued by the Information Commissioner from time to time;

"BFRC Logo": the logo to be used by Registered Businesses to indicate their registration under the BFRC Scheme, as notified to Registered Businesses from time to time;

"FENSA Logo": the logo to be used by Registered Businesses in association with the Energy Rating Label as applicable;

"BFRC Scheme": the provision of BFRC/energy rating licences for windows or doors manufactured for installation in dwellings or non-dwellings in the United Kingdom or Ireland and operated by BFRC.

"BFRC Simulator Manual": the document published from time to time by BFRC which stipulates the methodology for the creation of an Energy Rating Report;

"Glazing Notifications Data": has the meaning given in Rule 8.6.1;

"Group Company": any subsidiary of BFRC, any holding company of BFRC and any subsidiary of any such holding company, and for the purposes of this definition the terms "subsidiary" and "holding company" shall be as defined in section 1159 of the Companies Act 2006 ;

"Installation": the installation of windows, roof lights, roof windows or doors in dwellings and non-dwellings in United Kingdom or Ireland;

"NEED": DECC's National Energy Efficiency Data-Framework;

"Obligatory Information": updates and information regarding the Building Regulations and any other relevant regulations or laws which the Registered Business is obliged to receive as a condition of registration with BFRC;

"Registered Business": a business which is registered under the BFRC Scheme being either a Fabricator, a System House or an Authorised Retailer

"Registered Business Data": has the meaning given in Rule 8.2.1;

"Site": www.BFRC.org

"Third Party Data": has the meaning given in Rule 8.3.1.

"BFRC Mark(s)": BFRC Logo, FENSA Logo, Window Energy Rating Label, Doorset Energy Label, the words "ENERGY WINDOW", BFRC Permanent Mark, BFRC Licence number, the term "BFRC Registered which are collectively "the Mark(s)"

1. APPLICATIONS, CONTINUING OBLIGATIONS AND FEES

1.1 Initial Registration and Application Procedure

Registration with the BFRC Scheme shall be open to any business (whether a limited company, partnership, limited liability partnership, firm or other unincorporated body), which meets the eligibility criteria set out in these Rules. To be eligible for registration with the BFRC Scheme the business must:

- 1.1.1. carry on a trade in the fenestration sector in relation to the production, manufacture, sale and/or installation of windows, roof windows and/or doors in dwellings in United Kingdom or Ireland;
- 1.1.2. where the business is an Authorised Retailer it must have a commercial relationship with a Fabricator which is a Registered Business enabling the Authorised Retailer to supply and/or install licensed products.
- 1.1.3. where the business is an Authorised Retailer it must know the specification of the Insulated Glazing Unit specified in the product licence, and subsequent energy performance, to ensure compliance to the appropriate building regulations.
- 1.1.4. Sealed units must be manufactured in accordance with BS EN 1279. Third party test evidence, certification **OR** a CE marking declaration will be required from the Insulated Glazing Unit Fabricator. Evidence will be required when an inspection is conducted. The Authorised Retailer is responsible for sourcing an identical Insulated Glazing Unit. Purchase orders and/or delivery notes for Insulated Glazing Unit will be viewed during inspection.
- 1.1.5. agree to only use BFRC Certified Simulators for the production of energy ratings applications to BFRC. BFRC does not recognize ratings produced by any other source.
- 1.1.6. Agree to provide Energy Rating Reports to substantiate any claim of performance relating to the relevant fenestration products to which such claim relates. Once the report is approved the data shall be valid for a 5 year period after such time a re-evaluation must be conducted.
- 1.1.7. Agree that materials produced by Certified Simulators for the purposes of the production of any Energy Rating Report shall only be used to support the application and ongoing certification for the issuing of a BFRC Rating Licence.
- 1.1.8. BFRC Licence data may be obtained by the use of energy rating calculators provided such calculator has been assessed and approved by BFRC. Once approved ongoing use of the calculator is dependent upon a successful annual evaluation which shall be conducted by BFRC.
- 1.1.9. agree to ensure that the product installed corresponds to associated Licence specification.
- 1.1.10. agree to ensure that BFRC's intellectual property, including but not limited to label format, artwork, calculation spreadsheets, scheme rules, and guidance notes, shall be used solely for the purpose of obtaining a BFRC Energy Rating Licence and shall not be disseminated in any media format to any third party without the express written permission of BFRC.
- 1.1.11. agree to apply a Permanent Mark to their licenced products in accordance with the BFRC Permanent Mark Policy detailed at annex A. Any installed products without a Permanent Mark will not be considered to be BFRC licenced Products. The BFRC Permanent Mark Policy must be followed in all respects as incorrectly marking the frames may result in a failed BFRC Inspection which may result in the suspension of Registered Business and/or Energy Rating Licence.

- 1.1.12. agree to be bound by these Rules and sign a declaration in such form as BFRC shall require;
- 1.1.13. submit to BFRC a written application for certification to become a Registered Business using the Application Form specified by BFRC from time to time;
- 1.1.14. provide BFRC with details of the bank account(s) of the business and authorise BFRC to obtain bank references as required, in order to satisfy BFRC as to the continued ability of the business to meet its financial obligations to BFRC under these Rules;
- 1.1.15. establish a direct debit in favour of BFRC in relation to its financial obligations to BFRC under these Rules; unless alternative methods of payment have been agreed by BFRC, which agreement BFRC shall be entitled to give or withhold in its sole discretion;
- 1.1.16. In the case of a refusal to register any applicant under the BFRC Scheme, the applicant may appeal to the Appeals Committee (see Rule 5).
- 1.1.17. A successful application to register with BFRC does not confer on the applicant any form of membership of any other Trade Organisation associated with BFRC and such membership shall not confer on the Registered Business any right to use any logos or trademarks of any such Trade Organisation.

1.2 Continuing Obligations

Registered Businesses must comply with the following obligations:

- 1.2.1. To continue to meet the eligibility criteria set out in Rule 1.1.
- 1.2.2. To ensure that licensed fenestration products supplied are in all respects identical to the type approved. The BFRC product Licence will be issued for a 12 month period after which time, and if within the 5 year application period of the associated Energy Rating Report, the Licence may be renewed by payment of the appropriate fee(s).
- 1.2.3. where the business is an Authorised Retailer, to maintain its commercial relationship with a Fabricator which is a Registered Business enabling the Authorised Retailer to supply and/or install licensed products.
- 1.2.4. Authorised Retailers must know the specification of the Insulated Glazing Unit specified in the product licence, and subsequent energy performance, to ensure the product supplied is as per the BFRC Licence specification.
- 1.2.5. Sealed units must be manufactured in accordance with BS EN 1279. Third party test evidence, certification **OR** a CE marking declaration will be required from the Insulated Glazing Unit Fabricator. Evidence will be required when an inspection is conducted. The Authorised Retailer is responsible for sourcing an identical Insulated Glazing Unit. Purchase orders and/or delivery notes for Insulated Glazing Unit will be viewed during inspection.
- 1.2.6. To acknowledge and agree that the use of the BFRC licence in relation to any product does not absolve the licence holder from the need to ensure that that the product complies with all National and European Standards and all applicable laws.
- 1.2.7. To notify BFRC of any modifications to the product or its component parts.
- 1.2.8. To use only BFRC Certified Simulators for the production of energy ratings applications to BFRC.

- 1.2.9. BFRC Licence data may be obtained by the use of energy rating calculators provided such calculator has been assessed and approved by BFRC. The owner of the approved calculator is required to ensure that the information contained within the calculator is current and correct. BFRC and the associated Licence users must be informed of any changes to the calculator.
- 1.2.10. To ensure that the energy rating Licence details issued by BFRC is not misrepresented in any way by or on behalf of the Registered Business
- 1.2.11. To ensure that only licenced products are indicated as such when supplied to market and not to use the BFRC Logo, FENSA Logo and/or Energy Rating Label in relation to any product which has not been licensed .
- 1.2.12. To pay all fees, transaction processing charges, inspection charges and any other charges levied by BFRC from time to time as notified by BFRC to the Registered Business. Automatic renewal of certification is dependent upon payment of fees, changes to the Registered Business and/or changes to the Licenced product.
- 1.2.13. To submit to and co-operate fully with inspections by BFRC inspectors and to promptly (and in any event within such period as shall be reasonably specified by BFRC rectify any failure to comply with these Rules or any other requirements of BFRC notified to the Registered Business from time to time as may be revealed by such inspections.
- 1.2.14. To provide such information as BFRC may require from time to time in order to substantiate statements made on initial application, and to demonstrate that the Registered Business is continuing to comply with them and its obligations under these Rules.
- 1.2.15. To notify BFRC immediately in writing if the Registered Business ceases to trade for any reason including, without limitation, through bankruptcy, insolvency, or any similar process.
- 1.2.16. To notify BFRC immediately in writing if any change occurs to the Registered Business (including changes to its ownership, management, services, resources or staff which may affect its ability to comply with these Rules.
- 1.2.17. To keep a record of all complaints made known to it relating to compliance with certification requirements and make these records available to BFRC when requested.
- 1.2.18. In dealing with any consumer complaint, to offer the same level of cooperation with local consumer advisers or any other intermediary acting on behalf of a customer when making a complaint as it would to the complainant.
- 1.2.19. To be responsible for any costs and expenses incurred by BFRC arising directly or indirectly out of any breach by the Registered Business of these Rules.
- 1.2.20. To comply with any changes to the requirements of the BFRC Scheme as notified to the Registered Business from time to time.
- 1.2.21. Where it is identified that there are issues with a Certified Simulator any Energy Rating Licence produced by that Certified Simulator, and associated Energy Rating Licences will be suspended pending an investigation by BFRC.

1.3 Fees and Surcharges

The Registered Business is responsible for any charges related to its registration under the BFRC Scheme and is required to maintain current and up to date payments as notified by BFRC from time to time for the duration of its registration.

The Registered Business will be responsible for all such costs and surcharges at such rates as shall be notified by BFRC from time to time including without limitation the following:

- 1.3.1. Fees for inspections;
- 1.3.2. Fees for the processing of licence amendments;
- 1.3.3. Fees for the processing of alterations to Registered Business details;
- 1.3.4. Any Fees relating to additional inspections which may arise due to failure to comply with these Rules, the BFRC Scheme requirements, Energy Rating Licences or any complaint by a customer;
- 1.3.5. Fees relating to reinstatement following suspension, and
- 1.3.6. Administration fees of such reasonable amount as shall be determined by BFRC from time to time relating to the cancellation of any direct debit mandate or any invalid direct debit for which the Registered Business is responsible.

All charges and surcharges are exclusive of VAT which shall be payable in addition. All payments shall be made in full without deduction, set-off or withholding for any reason.

If the Registered Business fails to make payment of any sums due to BFRC then without prejudice to any other rights or remedies of BFRC, it shall be entitled to charge interest on the sum outstanding from the due date for payment until payment is received in full by BFRC at the rate applicable from time to time pursuant to the Late Payment of Commercial Debts (Interest) Act 1998.

2. INSPECTIONS AND SURVEILLANCE

All Registered Businesses will be required to submit to routine inspections and performance reviews to ensure that compliance with BFRC Energy Rating licence terms and these Rules is maintained. BFRC shall be entitled to engage third parties to carry out any such inspections or performance reviews. Registered Businesses must cooperate with any such inspections and reviews and provide all such assistance, information and access to premises as may be reasonably required by BFRC in relation to such inspections and reviews. Registered Businesses will be responsible for paying BFRC's charges in relation to inspections and performance reviews.

2.1 Inspections

- 2.1.1. All Registered Businesses will be subjected to routine inspections in order for BFRC to ensure that each Registered Business is complying with BFRC Energy Rating Licence(s) and these Rules.
- 2.1.2. The competence of Certified Simulators will be established by participation in annual assessment(s) as appropriate.
- 2.1.3. The number of inspections will be determined by BFRC in its absolute discretion and the Registered Business will be responsible for any relevant costs and fees.
- 2.1.4. BFRC reserves the right to conduct inspections of all parties in any supply chain and the Registered Business shall ensure that all such persons provide such assistance, information and access to premises as may be reasonably required by BFRC in relation to such inspections.

3. COMPLAINTS

The Registered Business must attempt to resolve any issues raised by their customers in the first instance under the Registered Business' own complaints process with a view to avoiding complaints being made to BFRC under the BFRC Complaints Procedure. BFRC will investigate any complaint received. The Registered Business must comply with the provisions of the BFRC Complaints Procedure published by BFRC, as amended from time to time.

3.1 Complaints about Registered Businesses

- 3.1.1. If the Registered Business accepts any complaint, which is notified to it by BFRC under the BFRC Complaints Procedure, it will have a period of time in which to confirm this in writing and complete any necessary investigation, the length of such period being as set out in the BFRC Complaints Procedure.
- 3.1.2. Should the Registered Business reject the complaint, fail to respond to BFRC or fail to complete any necessary investigation within the period of time referred to in Rule 3.1.1, BFRC shall conduct its own investigation. The results of that investigation will be made available to both the Registered Business and to the complainant. The Registered Business will be required to carry out at its own cost and expense any rectification specified in the report within such period as BFRC shall specify. The Registered Business shall reimburse to BFRC the costs of such investigation.
- 3.1.3. Failure to complete any remedial work required referred to in Rule 3.1.2 within such period as BFRC shall specify may result in suspension and subsequent termination of registration under the BFRC Scheme in accordance with Rules 4.2 and 4.3.

The Registered Business acknowledges that BFRC is unable to assist with contractual disputes. BFRC cannot, whether by way of any decision under the BFRC Complaints Procedure or otherwise, interfere with or overrule any decision of any court.

3.2 Complaints about BFRC

- 3.2.1. Complaints about BFRC or the BFRC Scheme must be submitted in written format including all relevant information to the Operations Manager of BFRC.
- 3.2.2. BFRC will work with the complainant to achieve a resolution to the complaint where possible.
- 3.2.3. Complaints regarding BFRC staff will be fully investigated and appropriate action taken.
- 3.2.4. Any complaint made about BFRC which cannot be resolved between the complainant and BFRC to the satisfaction of the Registered Business may be referred to the Appeals Committee (see Rule 5).

4. LEAVING THE BFRC SCHEME

4.1 Cancellation of Registration by Registered Business

The Registered Business may cancel its registration under the BFRC Scheme at any time by giving to BFRC not less than 30 days' written notice of cancellation. Notwithstanding such cancellation, the Registered Business will remain bound by the following obligations:

- 4.1.1. The Registered Business will remain responsible for any outstanding debts to BFRC including, without limitation, outstanding payments for inspections and any unpaid sums arising out of any cancelled direct debits and any other fees so incurred;
- 4.1.2. The Registered Business must cease all use of the BFRC name and the BFRC Logo, or FENSA Logo as appropriate, immediately as set out in Rule 4.4.1 and comply in all other respects with such Rule. Failure to adhere to any of these conditions will be deemed to amount to a breach of the BFRC Rules (notwithstanding the termination of the registration under the BFRC Scheme) and all company details will be removed from the public domain.

4.2 Suspension of Registration and/or BFRC Energy Rating Licence by BFRC

BFRC may suspend the registration and/or any relevant BFRC Rating Licence of any Registered Business by giving written notice to the Registered Business for any of the following reasons:

- 4.2.1. the Registered Business has wilfully made any false declaration of the energy performance of one of its products.
- 4.2.2. the documentation used to support a BFRC Rating Licence has been deliberately misrepresented. All BFRC Rating Licences held by the Registered Business, and the associated Certified Simulator, will be suspended with immediate effect pending an investigation by BFRC.
- 4.2.3. the Registered Business refuses to carry out remedial work where such remedial work is required following any inspection as referred to in Rule 2.1 or following any complaint by a customer;
- 4.2.4. the Registered Business has, in the sole opinion of BFRC, an unacceptable record of failure to comply with any Energy Rating Licence, having regard to the volume of licenses issued, the number of instances of non-compliance and its record of customer complaints;
- 4.2.5. the Registered Business defaults on any payments related to their registration under the BFRC Scheme;
- 4.2.6. where the Registered Business is an Authorised Retailer, BFRC becomes aware that the Authorised Retailer does not have commercial arrangements in place for the supply of licenced product;
- 4.2.7. the Registered Business fails to maintain a current and up to date direct debit mandate or any alternative method of payment agreed by BFRC as required by Rule 1.3;
- 4.2.8. the Registered Business has made any false declaration in connection with its application for registration with the BFRC Scheme;
- 4.2.9. the Registered Business commits any breach of these Rules (whether or not being a material breach);
- 4.2.10. the Registered Business refuses to participate in or comply with any requirements of the BFRC Complaints Procedure;
- 4.2.11. the Registered Business becomes insolvent or has entered into liquidation either compulsory or voluntary (save for the purpose of a bona fide solvent amalgamation or reconstruction) or had an administrative receiver, receiver or administrator appointed in respect of the whole or any part of its assets or made an assignment for the benefit of or composition with its creditors or threatens to do any of these things or if anything analogous to any of the foregoing under the law of any jurisdiction occurs in relation to the Registered Business; or
- 4.2.12. the Registered Business commits any act of bankruptcy or suffers the filing of a petition in bankruptcy or makes any arrangement or composition with creditors or takes or suffers any similar actions in consequence of a debt.
- 4.2.13. BFRC reserves the right to terminate the certification of the Registered Business in any of the above circumstances.

4.2 Termination of Registration by BFRC

- 4.3.1. BFRC shall be entitled to terminate the registration of the Registered Business with the BFRC Scheme forthwith by giving written notice to the Registered Business if the Registered Business does not lodge a formal appeal as referred to in Rule 4.4.6 in respect of any decision to suspend the Registered Business and/or any Energy Rating Licence(s) within 28 days of the Registered Business being notified of such suspension.

4.3.2. If the Registered Business lodges a formal appeal within the time limit set out in Rule 4.3.1 the suspension of the Registered Business and/or any Energy Rating Licence(s) shall continue until the Appeal process has been completed. If following completion of such Appeal process the decision to suspend is upheld the registration of the Registered Business and/or any Energy Rating Licence(s) with the BFRC Scheme shall automatically terminate. Termination of an Energy Rating Licence may be independent of the termination of the Registered Business but termination of a Registered Business will result in the termination of all associated Energy Rating Licence(s).

4.4 Consequences of Suspension or Termination of Registration

4.4.1 During the period of any suspension of registration and following any termination of registration under the BFRC Scheme, the Registered Business must cease immediately to describe itself as a BFRC registered business, cease any use of any BFRC Energy Rating Licence(s), cease use of the BFRC name and BFRC Marks whether on any stationery, promotional materials, vehicles, equipment or otherwise, immediately cease distribution of all items or products on which the BFRC name or any BFRC Mark is displayed, cease to display the BFRC company registration certificate, cease to make any references to BFRC that might mislead the reader about the status of the business and take such other action as required by BFRC. If so requested by BFRC the Registered Business shall provide confirmation in writing and certified by an officer of the Registered Business that it has complied with such requirements.

4.4.2 During the period of any suspension of registration and following any termination of registration under the BFRC Scheme, the Registered Business will be removed from the database of BFRC Registered Businesses operated by or on behalf of the BFRC,

4.4.3 During the period of any suspension of registration and following any termination of registration under the BFRC Scheme, the Registered Business shall not apply any Energy Rating Label, Permanent Mark, BFRC Logo or FENSA Logo to any of the products manufactured or sold by the Registered Business or make reference to any associated Energy Rating Licence;

4.4.4 During the period of any suspension of registration and following any termination of registration under the BFRC Scheme, the Registered Business will remain responsible for any outstanding debts to BFRC including, without limitation, outstanding payments for inspections and any unpaid sums arising out of any cancelled direct debits.

4.4.5 In the event of receipt of notice of suspension of the registration of a Registered Business under the BFRC Scheme, the Registered Business will have the right of appeal to an independent Appeals Committee in accordance with Rule 5. Any such appeal must be lodged within 28 days of the Registered Business being notified of such suspension.

In particular following termination of registration of the Registered Business shall:

4.4.6 use its best endeavours to withdraw from circulation as soon as reasonably practicable and in any event within 2 (two) months of the termination date any advertising, promotional and marketing materials relating to any of the product(s) manufactured or sold by the Registered Business bearing the BFRC Mark(s) which are not in its possession, power or control;

4.4.7 ensure there is no further publication or distribution of any advertising, promotional and marketing materials relating to any of the product(s) manufactured or sold by the Registered Business bearing the bearing the BFRC Mark(s);

4.4.8 within 7 (seven) days of the termination date destroy or procure the destruction of all advertising, promotional and marketing materials relating to any of the product(s) manufactured or sold by the Registered Business bearing the bearing the BFRC Mark(s) and being within its possession, power or control;

4.4.9 use its best endeavours to destroy or procure the destruction as soon as is reasonably practicable and in any event within 2 (two) months of the termination date of any advertising, promotional and marketing materials relating to the product(s) manufactured or sold by the Registered Business in each case bearing the Mark(s) which are not within its possession, power and control;

4.4.10 For the avoidance of doubt the Registered Business shall not be entitled to any refund of any annual registration fee if its registration under the BFRC Scheme is terminated whether pursuant to Rule 4.1 or Rule 4.3.

4.4.11 If the decision to suspend the registration of a Registered Business is revoked pursuant to the Appeals process referred to in Rule 5, the registration of the Registered Business shall be re-activated within 7 (seven) days of such revocation and from that time the Registered Business shall continue to be entitled to use any approved licenses/Energy Rating Licences other than those which may have expired during any such period of suspension. BFRC shall have no liability to the Registered Business whatsoever or howsoever arising in relation to any decision to suspend the Registered Business irrespective of any decision by the Appeal Committee to revoke any suspension.

5. BREACH OF RULES AND APPEALS

Any breach of the BFRC Rules and any Energy Rating Licence will be investigated in the first instance by BFRC and the appropriate sanctions as determined by BFRC will be applied which may include suspension of the registration of the Registered Business or any Energy Rating Licence(s) pursuant to Rule 4.2.

The Registered Business shall be responsible for any breach of the Rules and any Energy Rating Licence on the part of any manager, servant or any other person directly or indirectly employed by them or acting on their behalf.

5.1 Appeals

5.1.1 The BFRC Operations Manager may refer to the Appeals Committee any specific matters on which he feels that further advice would be beneficial.

5.1.2 Appeals against decisions of BFRC (including suspensions of registration and/or Energy Rating Licences) shall be heard by the Appeals Committee within a reasonable time of the appeal being lodged.

5.1.3 The Appeals Committee is responsible for handling disputes between BFRC and an applicant for registration if their application is rejected and they wish to appeal such rejection.

5.1.4 The Chairman of the Appeals Committee will be appointed by the BFRC Impartiality Committee. The remaining members of the Appeals Committee shall be appointed by the Chairman of the Appeals Committee having regard to the need to ensure independence and impartiality of the committee members.

5.1.5 Rulings of the Appeals Committee shall be binding on Registered Businesses. Decisions of the Appeals Committee shall be issued in writing and notified to the Registered Business and BFRC as soon as reasonably practicable.

5.1.6 The rules and procedures governing appeals to the Appeals Committee shall be as determined from time to time by the BFRC Impartiality Committee.

6. BFRC USE OF MARKS

All Registered Businesses are required to comply with the provisions of this clause. The logo template(s) are downloadable from the BFRC website.

This clause details the rights and obligations of the Registered Business in respect of the use of:

- 1) BFRC and FENSA Logo
- 2) Window Energy Rating Label
- 3) Doorset Energy Label
- 4) the words ENERGY WINDOW
- 5) Permanent Mark
- 6) BFRC Licence number
- 7) BFRC Registration Certificate
- 8) The term “BFRC Registered”

Collectively these are referred to and in the main body of the Rules as “the Mark(s)”.

Grant

BFRC grants to the Registered Business a royalty-free non-exclusive licence to use the Mark(s) in the Territory to promote the energy efficiency rating of the Product(s) for which a valid BFRC Rating Licence remains in force and which is not under suspension pursuant to Rule 4.2 (but not further or otherwise) for the Term subject to the provisions of these Rules. Any use by the Registered Business of the Marks shall comply with the provisions of use.

The licence granted hereunder is personal to the Registered Business and the Registered Business shall not (save as expressly referred to in this paragraph) sub-license or sub-contract any of the rights granted to it under these Rules. The Registered Business shall be entitled to sub-contract the design, production, printing, distribution, display or publication of all and any marketing, advertising and promotional materials bearing the Mark(s) provided that such sub-contracting is in the ordinary course of business. The Registered Business shall be responsible for the acts and omissions of any person to whom it sub-contracts any of the activities referred to in this paragraph as if they were the acts and omissions of the Registered Business.

Nothing in the main body of the Rules shall prevent BFRC or any person authorised by BFRC from using the Marks in any manner and in relation to any goods or services in the Territory or elsewhere.

Term

This Agreement shall come into force on the certification of the Registered Business with BFRC and shall subject to its terms remain in force until such certification is terminated by either party.

Samples of Usage

The Registered Business shall submit forthwith to BFRC, at its request, from time to time samples of all marketing, advertising and promotional materials relating to the Product(s) which bear the Mark(s) including print-outs of all instances of online usage and recordings of broadcast use (where applicable).

The Mark(s)

The Registered Business shall be entitled to use the Mark(s), and any BFRC Energy Rating Licence, during the Term in the Territory in relation to the Product(s) for the purpose only of exercising its rights and performing its obligations under the Rules and this Appendix. The Registered Business shall ensure that each reference to and use of the Mark(s) by or on its behalf is in a manner which is in accordance with the terms of these Rules.

The Registered Business undertakes during the Term:

- (1) not to use the Mark(s) for any purpose or in any manner not authorised hereunder;
- (2) not to use the Mark(s) in any way which might prejudice their distinctiveness or validity or BFRC's goodwill therein;
- (3) not to use in the Territory any trademarks, service marks or trade names so resembling the Mark(s) as to be likely to cause confusion or deception;
- (4) not to apply for the registration in the Territory (or any part thereof) of any trade marks or service marks identical to or similar to the Mark(s); and
- (5) to use the Marks without alteration or modification whatsoever.

Except as provided in the Rules, the Registered Business shall have no rights in respect of the Mark(s), the Intellectual Property or of any goodwill associated therewith, and the Registered Business acknowledges that, except as expressly provided in these Rules, it shall not acquire any rights in respect thereof and that all such rights and goodwill are and shall remain vested in BFRC. To the extent that any goodwill associated with the Mark(s) accruing out of or by reason of use by the Registered Business or on its behalf thereof is held by the Registered Business it shall be so held as bare trustee for BFRC's benefit and the Registered Business shall on demand do all acts and execute all documents which may be necessary to confirm the title of BFRC to the same.

The Registered Business shall at the expense of BFRC take all such steps as BFRC may reasonably to assist BFRC in maintaining the validity and enforceability of the Mark(s) during the Term.

The Registered Business shall promptly and fully notify BFRC of any actual, threatened or suspected infringement in the Territory of the Intellectual Property which comes to its notice and of any use of the Mark(s) by any third party which appears to fall outside the usage normally permitted.

BFRC shall have the conduct of all proceedings relating to the Intellectual Property-and shall in its sole discretion decide: (1) what steps, if any, to take in respect of any infringement or alleged infringement of, or any other claim relating to, the Intellectual Property; and (2) what steps, if any, to take to defend or resist any claim by third parties in respect of the Intellectual Property; and the Registered Business shall at BFRC's request and expense do all such things as may be reasonably necessary to assist BFRC in taking or resisting any proceedings in relation to such infringement or claim.

BFRC shall not be obliged to bring or defend any proceedings whether for infringement or otherwise in relation to the Intellectual Property or any use of the Mark(s) should it decide in its sole discretion not to do so and the Registered Business shall not be entitled to bring any action for infringement of any registered trade mark comprised in the Mark(s) under section 30 of the Trade Marks Act 1994 or under any equivalent legislation having effect in any part of the Territory, regardless of any such decision.

In any infringement proceedings brought by BFRC under the above paragraph, BFRC shall be entitled to claim in respect of any loss suffered by the Registered Business but shall be entitled to retain any damages awarded in respect of such claim and the provisions of section 30(6) of the Trade Marks Act 1994 and any equivalent legislation having effect in any part of the Territory are expressly excluded to this extent.

Warranties by the Registered Business

The Registered Business warrants, represents and undertakes to BFRC that:

(1) it will only use the Mark(s) in respect of, or on the packaging or labeling of, Products which are identical in all respects to and of the same quality as the Product(s) which were tested or evaluated by BFRC or on its behalf in connection with the registration with BFRC of the Product(s) by the Registered Business or the Fabricator and as detailed on the BFRC Energy Rating Licence; and

(2) all marketing, advertising or promotional material bearing the Mark(s) will comply with all applicable laws and regulations of any governmental or regulatory body having jurisdiction in the Territory and all applicable codes of practice in operation in the Territory.

Warranties by BFRC

BFRC warrants that so far as it is aware and as at the Commencement Date, the use by the Registered Business of the Mark(s) upon or in connection with the Product(s) will not infringe the rights of any third party in any part of the Territory. Save as provided in this paragraph, BFRC gives no warranties in respect of the use by the Registered Business of the Mark(s) and it shall be for the Registered Business to satisfy itself that the use of the Mark(s) will not infringe the rights of any person or result in any breach of any applicable laws or regulations.

Obligations

The Registered Business agrees throughout the Term as follows:

(1) not to describe itself or act as an agent or representative of BFRC;

(2) to comply with all applicable laws, rules and regulations of any governmental or regulatory body and all relevant codes of practice in the Territory in respect of the Product(s) and marketing, advertising or promotional material relating to the Product(s) and to obtain any required approval relating to the marketing, advertising, promotion or sale of the Product(s) prior to carrying out any such activities;

(3) not to charge any of its rights or obligations under the Rules or this Appendix or purport to do so in any way without our prior written consent;

(4) not to make any representations to customers or to give any warranties on behalf of BFRC;

(5) unless requested by BFRC, not to apply to the Office for Harmonisation in the Internal Market, the Registrar of Trade Marks or any equivalent official or body in the Territory (or any part thereof) for the registration of the licence granted under the Rules or this Appendix as a licence;

(6) not to use the Mark(s) in respect of any marketing, advertising or promotional material relating to the Product(s) if the Registered Business is not the Fabricator of such Product(s) and receives notification from the Fabricator (or any third party (including BFRC) on behalf of the Fabricator) that there has been any amendment or variation made to the specification or any other qualities or features of the Product(s) since the Product(s) were tested or evaluated by BFRC or on behalf of BFRC in connection with the registration of the Product(s) by the Fabricator/the granting of any BFRC Rating Licence;

(7) to notify BFRC in writing if, during the Term, the Registered Business become aware of any change having been made to the specification or any of the qualities or features of the Product(s); and

(8) not to engage in any marketing, advertising or promotional activities which are likely to reduce or diminish the reputation, image or prestige of the Mark(s) or the BFRC.

The Registered Business agree to indemnify and keep BFRC indemnified from and against any and all Losses suffered by it resulting from the performance or non-performance by the Registered Business of its obligations under these Rules and from and against any Losses suffered by BFRC arising out of or based upon defects in the Product(s).

General

The Rules supersede any prior agreement between BFRC and the Registered Business relating to the use of the Mark(s) on or in relation to the Product(s) whether written or oral and any such prior agreements are cancelled as at the Commencement Date but without prejudice to any rights which have already accrued to either of the parties. The Rules contain the whole agreement between the parties and the Registered Business confirms that it has not relied upon any oral or written representations made by BFRC or its employees or agents. Nothing in this paragraph shall however operate to limit or exclude any liability for fraud. Amendments or additions to the Rules shall only be effective if made in writing and signed by an authorized representative of each of the parties hereto.

Any failure by BFRC to enforce at any particular time any one or more of the terms of the Rules shall not be deemed a waiver of such rights or of the right to subsequently enforce any of the terms set out in the Rules.

BFRC may at any time assign, transfer, charge or deal in any other manner with any or all of its rights and obligations under the Rules. Save as expressly set out in the section titled "Grant" above the Registered Business shall not without our prior written consent assign, transfer, charge, sub-licence, sub-contract or deal in any other manner (including by way of declaration of trust in favour of any person) with any or all of its rights and obligations under the Rules.

Any provision of the Rules which in order to give effect to its meaning needs to survive the Termination Date shall remain in full force and effect thereafter. No term of the Rules shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to the contract formed between BFRC and the Registered Business by virtue of the Rules, but this shall not affect any right or remedy of any third party which exists or is available other than under that Act. Only Registered Businesses are permitted to use the BFRC Logo, display the BFRC company registration certificate and/or make reference in any way to being BFRC registered. Registered Businesses shall not make use of the Mark(s) in such manner as to bring BFRC into disrepute and shall not make any statement regarding its registration with the BFRC Scheme which in the opinion of BFRC is misleading, unauthorised or in breach of these Rules.

Any Registered Business failing to follow the provisions of the Rules referred to above must comply promptly with any instructions to correct the breach failing which BFRC shall be entitled to suspend or terminate the registration of the Registered Business with the BFRC Scheme.

7. MISCELLANEOUS PROVISIONS

Interpretation

If in the interpretation of any of these Rules there shall be any dispute or difference of opinion, it shall be referred for resolution to a meeting of the BFRC Impartiality Committee whose decision on such matter shall be final and binding on all concerned.

7.1 Amendments to the Rules

These Rules may be amended by BFRC from time to time by notice given on the BFRC website at www.bfrc.org. Any such amendments shall become binding on all Registered Businesses 7 (seven) days after such notification taking place. If a Registered Business is unhappy with any such amendment it may terminate its registration under the BFRC Scheme by giving notice to BFRC within such 7 (seven) day period. In the event of such termination no refund of any fees shall be made to the Registered Business.

7.2 Confidentiality

Save as may be required to be disclosed by law or to any relevant governmental body or other authority or regulatory body, BFRC shall keep confidential all information received from the Registered Business which is a trade secret or otherwise of a confidential nature and shall not disclose the same to any third party without the prior consent of the Registered Business.

The Registered Business shall at all times during and after the term:

- 1) keep all information relating to BFRC or its affairs ("Confidential Information") confidential and accordingly not disclose any Confidential Information to any other persons other than to any employees of the Registered Business but only to such extent as is necessary for the exercise of the Registered Business' rights under these Rules or any BFRC Rating Licence and subject to such employees being bound by similar obligations of confidence and the Registered Business procuring that such employees keep the Confidential Information confidential ; and
- 2) not use any Confidential Information for any other purpose other than the exercise of the Registered Business' rights under these Rules or any BFRC Rating Licence.

Any Confidential Information may be used by the Registered Business for any purpose or disclosure to any other person to the extent that:

- 1) it is at the date of disclosure to the Registered Business, or thereafter becomes, public knowledge through no fault of the Registered Business provided that in doing so the Registered Business shall not disclose any Confidential Information which is not in the public knowledge;
- 2) it can be shown by the Registered Business, to the reasonable satisfaction of BFRC, to have been known to the Registered Business prior to its being disclosed to it by BFRC; or
- 3) it is required to be disclosed by any statute or regulation or under any laws or pursuant to any order of a court of competent jurisdiction

On the termination of registration with BFRC, howsoever arising, the Registered Business shall return or, at the request of BFRC, dispose of or destroy all tangible Confidential Information being in the possession, custody or control of the Registered Business.

7.3 Liability

The Registered Business shall indemnify BFRC from and against any Losses suffered or incurred by BFRC arising out of or in connection with any such products or services.

7.4 Limitation of Liability

Save in respect of death or personal injury caused by the negligence of BFRC or any fraudulent misrepresentation (for which BFRC shall have unlimited liability), BFRC shall have no liability to any Registered Business for any loss of profit, loss of business, contracts or goodwill, loss of or corruption of data (in each case whether the same is direct or indirect) or for any indirect, special or consequential loss or damage which arises out of or in connection with the performance or non-performance by BFRC of any of its obligations under these Rules or in connection with the BFRC Scheme.

Save in respect of death or personal injury caused by the negligence of BFRC or any fraudulent misrepresentation (for which BFRC shall have unlimited liability) the maximum aggregate liability of BFRC to any Registered Business in contract, tort or otherwise howsoever arising out of or in connection with the performance or non-performance by BFRC of any of its obligations under these Rules or in connection with the BFRC Scheme shall be limited to 150% of the fees paid by such Registered Business to BFRC in the 12 months preceding the event or occurrence giving rise to such liability.

7.5 Force Majeure

BFRC shall have no liability for any delay in or failure to perform its obligations under or in connection with the BFRC Scheme where the same is caused by any event or occurrence beyond the reasonable control of BFRC.

7.6 Waiver

The waiver or forbearance or failure of BFRC in insisting in any one or more instances upon the performance of any provisions of these Rules shall not be construed as a waiver or relinquishment of its right to future performance of such provision and the Registered Business' obligation in respect of such future performance shall continue in full force and effect.

7.7 Assignment

The Registered Business shall not be entitled to transfer, assign, sub-contract or otherwise dispose of (including by way of declaration of trust) any of its rights or obligations under these Rules.

7.8 Invalidity and Severability

If any provision of these Rules shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of these Rules which shall remain in full force and effect.

7.9 Notices

All notices given under these Rules may be given by hand or sent by pre-paid first class post, by email or by facsimile transmission, in the case of notice to the Registered Business to the address, email address or facsimile number most recently provided by it to BFRC and, in the case of notice to BFRC to the address, email address or facsimile number given on the BFRC website. Notices given by hand shall be deemed to have been served on the date of delivery and notice served by pre-paid first class post shall be deemed to have been served on the second day after posting save that in either case if such day is not a working day notice shall be deemed served on the next working day thereafter.

Notices served by email or facsimile transmission shall be deemed to have been served on the date of transmission provided that a confirmation copy is also sent by pre-paid first class post within 24 hours after transmission.

7.10 Governing law and jurisdiction

These Rules shall be governed by English law. Any dispute arising under or in connection with these Rules shall be subject to the exclusive jurisdiction of the courts of England and Wales.

8. DATA PROTECTION AND PRIVACY

8.1 This Rule 8 (together with the BFRC Website Terms, the BFRC Website Privacy Policy and any other documents referred to in them) sets out the basis on which any personal data BFRC collects from the Registered Business, or that the Registered Business provides to BFRC, will be processed by BFRC. For the purposes of this Rule 8, any reference to BFRC shall include its Group Companies. BFRC's Group Companies may collect, process and use data in accordance with this Rule 8. For the purposes of the DPA, the data controller in relation to any personal data provided by the Registered Business and processed by BFRC is British Fenestration Rating Council Limited (company number 5649431) of Newspaper House, 40 Rushworth Street, London, United Kingdom SE1 0RB.

8.2 Registered Business Data

8.2.1 BFRC may collect and process the following information provided by Registered Businesses:

- i. any information that the Registered Business provides on the BFRC application form (including, amongst others, the name, address, telephone number and email address of the Registered Business, the name of the Registered Business' insurance company provider, the Registered Business' company registration details and membership of trade associations, schemes and/or bodies);
- ii. details of consumer complaints;
- iii. any other information provided by a Registered Business by filling in forms on the Sites (including, but not limited to, information provided at the time of registering to use the Sites, when subscribing to the BFRC service, when posting material or requesting further services, or when reporting a problem with the Sites);
- iv. any correspondence between BFRC and the Registered Business;
- v. details of any transactions the Registered Business carries out through the Sites and of the fulfilment of any orders; and
- vi. details of the Registered Business' visits to the Sites including, but not limited to, traffic data, location data, weblogs and other communication data, whether this is required for BFRC's own billing purposes or otherwise and details of the resources that the Registered Business accesses.

(together, "Registered Business Data")

- 8.2.2 BFRC may use Registered Business Data in the following circumstances:
- i. where the Registered Business has consented to be contacted for such purposes;
 - ii. for the purposes of carrying out BFRC's obligations arising from any contracts entered into between BFRC and the Registered Business;
 - iii. to notify the Registered Business about changes to BFRC's service;
 - iv. for the processing of financial payments;
 - v. for market research, user trend studies, website user improvements and customer services;
 - vi. to provide the Registered Business with information, products or services that it requests from BFRC or which BFRC believes may interest it; and
 - vii. to provide the Registered Business with Obligatory Information.
- 8.2.3 BFRC may supply Registered Business Data to third parties who undertake services on BFRC's behalf in relation to the operation of the BFRC Scheme to enable them to use Registered Business Data to perform such services.
- 8.2.4 It is a condition of registration with BFRC that all Registered Businesses receive the Obligatory Information. If a Registered Business does not want to receive the Obligatory Information, it may opt out by ending its registration with BFRC in accordance with Rule 4.1 of these Rules.

8.3 Third Party Data

- 8.3.1 BFRC may collect and process the following third party information:
- i. any information relating to third parties that the Registered Business provides by filling in forms on the Sites or on the BFRC application form (including, amongst others, the name and address of customers and any information about any Installation); and
 - ii. any details relating to third parties provided in correspondence between BFRC and the Registered Business.
- (together, "Third Party Data")
- 8.3.2 Third Party Data is used by BFRC:
- i. to inform local authorities about the BFRC Rating Licence(s) and may be disclosed to local authorities for this purpose; and
 - ii. for internal marketing research purposes (e.g. customer satisfaction surveys).
- 8.3.3 Subject to Rules 8.6.1 and 8.6.2, BFRC does not sell, trade or rent Third Party Data.
- 8.3.4 If the Registered Business does not want BFRC to use Third Party Data as set out in Rule 8.3.2(ii) above the Registered Business may opt out by writing to BFRC at Newspaper House, 40 Rushworth Street, London, United Kingdom SE1 0RB or by email to enquiries@BFRC.org
- 8.3.5 The Registered Business confirms that it has the right to provide the Data to BFRC for the purposes set out in these Rules. The Registered Business confirms that all customers have given their valid written consent and, where required under the DPA, their explicit consent to the provision of the Data by the Registered Business to BFRC and to the processing of the Data by BFRC for such purposes.

8.4 Storage of the Data

- 8.4.1 The Data will be stored on BFRC's secure servers. Where BFRC has given the Registered Business (or where the Registered Business has chosen) a password which enables it to access certain parts of the Sites, the Registered Business is responsible for keeping this password confidential and should not share it with anyone. By submitting the Data, the Registered Business agrees to the transfer, storing and/or processing of the Data as set out in these Rules.
- 8.4.2 BFRC will take all steps reasonably necessary to ensure that the Data is treated securely and in accordance with these Rules. Unfortunately, the transmission of information via the internet is not completely secure and therefore, although BFRC will do its best to protect the Data, it cannot guarantee the security of the Data transmitted to the Sites. Any transmission of Data by the Registered Business is at the Registered Business' own risk. Once BFRC has received the Data, it will use strict procedures and security features to try to prevent unauthorised access.

8.5 IP Addresses

BFRC may collect information about the Registered Business' computer, including, where available, its IP address, operating system and browser type, for system administration and to report aggregate information to BFRC's advertisers. This is statistical data about BFRC's users' browsing actions and patterns and does not identify any individual.

8.6 Disclosure of the Data

- 8.6.1 BFRC may provide access to certain Data, namely energy efficiency data relating to glazing installations at properties ("Glazing Notifications Data"), to DECC solely for the purpose of research and statistical analysis as part of NEED and not for any commercial purpose or for any form of financial exploitation. DECC may publish outputs of the statistical analysis carried out using the Glazing Notifications Data and an anonymised version of NEED incorporating the Glazing Notifications Data, provided that no individual person or property can be identified from such published data, or from the published data when combined with other information to which the person receiving the published data has access.
- 8.6.2 BFRC may also disclose the Data to third parties:
- i. in the event that BFRC sells or buy any business or assets, in which case it may disclose the Data to the prospective seller or buyer of such business or assets;
 - ii. if BFRC or substantially all of its assets are acquired by a third party, in which the Data will be one of the transferred assets; and
 - iii. if BFRC is under a duty to disclose Registered Business Data and/or Third Party Data in order to: (a) comply with any legal obligation;(b) enforce or apply its terms of use, privacy policy or these BFRC Rules; or (c) protect the rights, property, or safety of BFRC and its customers. This may include exchanging information with other companies and organisations for the purposes of fraud protection and credit risk reduction; and
 - iv. where such third parties provide any services to BFRC relating to the operation of the BFRC Scheme solely to enable them to use the Data to perform such services.

8.7 Links

The Sites may, from time to time, contain links to and from the websites of BFRC's partner networks, advertisers and affiliates. If the Registered Business follows a link to any of these websites, please note that these websites have their own privacy policies and that BFRC does not accept any responsibility or liability for these policies. The Registered Business should check these policies before it submits any personal data to these websites.

BFRC RULES: ANNEX A – PERMANENT MARK POLICY

ALL products produced in accordance with a BFRC Rating Licence shall be permanently marked displaying the following information:

- Company registration number: example **M000 or AR000**
- Licence number of the window or door: example **1234 or D1234**
- The Window Energy Rating or Doorset Energy Rating: for example **A++, A+, A, B, C, D and E**

This permanent mark is not the rainbow coloured energy label.

The permanent mark shall be indelible and may be in the form of a small tamperproof sticker or stamp which is discreetly placed within the opening section of frame. This permanent mark will be used to identify the products during audit.

Fabricators supplying products produced in accordance with a BFRC Rating Licence which are glazed to retailers must permanently mark the frames – whether they are supplying to a BFRC registered Authorised Retailer or not.

Fabricators supplying products produced in accordance with a BFRC Rating Licence which are unglazed frames to a BFRC registered Authorised Retailer can either:

- 1) mark the products themselves with the Permanent Mark or,
- 2) ensure that the Authorised Retailer is aware of their responsibility to mark the product.

Fabricators supplying products which are unglazed to non-registered retailers should not :

- 1) permanently mark them as these products cannot be regarded as products produced in accordance with a BFRC Rating Licence.
- 2) use any of the BFRC Marks in relation to these unglazed products.