

Trade Membership Information and Scheme Rules

Version K – 01.05.2019

The logo for the DGCOS Ombudsman Scheme is a dark blue circle with a lighter blue, stylized sunburst or fan-like shape behind it. The text 'DGCOS' is in large, bold, white capital letters, and 'Ombudsman Scheme' is in smaller, white capital letters below it.

DGCOS
Ombudsman
Scheme

The Double Glazing & Conservatory Quality Assurance Ombudsman Scheme (DGCOS) is a private company limited by guarantee.

Registered in England and Wales under Company Registration Number 05860672 at Solutions House, Chorley Business & Technology Centre, Euxton Lane, Chorley, PR7 6TE.

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A. GENERAL

1 Introduction

- 1.1 These are the Rules of the Double Glazing & Conservatory Quality Assurance Ombudsman Scheme (“DGCOS”) and set out the rights, obligations and standards of practice expected of Trade Members of DGCOS (“Trade Members”).
- 1.2 Upon joining The Scheme, every Trade Member agrees to be bound by these Rules.
- 1.3 These Rules shall have effect throughout the Trade Member’s period of membership of DGCOS and shall apply particularly to, but not be exclusively restricted to, the Trade Member’s responsibilities and commitments in respect of:
- i) any contractual obligation accepted by, or affecting, the Trade Member; and
 - ii) any work contracted and carried out by the Trade Member (including any subsequent remedial or warranty work and/or any related tortious matter); and
 - iii) any matter of complaint or claim in tort raised by a member of the public about or resulting from its dealings with a Trade Member;

during its period of Membership of DGCOS.

2 Objectives

- 2.1 DGCOS is a company limited by guarantee. Its objectives are set out in its Memorandum and Articles of Association but, in short, are designed to engender confidence in the general public when dealing with Trade Members in relation to the installation of double glazing, conservatory and related products.
- 2.2 DGCOS seeks to pursue this goal by:
- 2.2.1 ensuring that the Trade Member has and at all times maintains and operates quality assured processes which are certified to the relevant ISO standard or to a standard acceptable to DGCOS; and
 - 2.2.2 providing a written set of Rules to be followed by Trade Members in the conduct of their business and in their dealings with the public; and
 - 2.2.3 providing an Ombudsman Scheme to:
 - i) investigate complaints from Customers and/or Prospective Customers made against Trade Members; and
 - ii) resolve Trade Members’ disputes with Customers by the provision of investigation and conciliation/mediation services; and
 - iii) where appropriate, determine such complaints and disputes by referral to The Ombudsman;and
 - 2.2.4 providing a Compensation Fund to which Trade Members are required to contribute in accordance with the provisions of Appendix 2 which may be used to compensate parties in the circumstances described in that Appendix.



B. DEFINITIONS

3 In these Rules:

Unless the context requires otherwise, the gender (or lack of gender) of all words used in these Rules includes the masculine, feminine, and neuter.

- 3.1 **“Accreditation Process”** means the process laid down by The Board from time to time, which those seeking to be invited to become Trade Members of The Scheme must pass and with which they must comply, on an ongoing basis, in order to maintain Trade Membership.
- 3.2 **“Appointed Insurance Broker”** means the company or organisation which DGCOS appoints from time to time for the supply of Deposit Protection Insurance, Stage Payment Insurance and Insurance Backed Guarantees to be issued to Trade Members customers.
- 3.3 **“Caution”** means a warning issued to a Trade Member requiring the addressing of an infringement of the Rules within a stated period of time.
- 3.4 **“Complaint Handler”** means the person designated by the Trade Member as being responsible for the operation of its Complaints Handling procedures.
- 3.5 **“Complaints Directory”** means the log of written complaints kept by a Trade Member.
- 3.6 **“Compliance Officer”** means the person designated by a Trade Member as being responsible for the filing of documents with DGCOS on its behalf to fulfil the requirements of The Scheme.
- 3.7 **“Contract”** means an order or contractual agreement for the supply and installation of double glazing, conservatory and related products to a Customer.
- 3.8 **“Contract Registration Administrator”** means the person designated by the Trade Member as being responsible for registering contract details and recording, on DGCOS web site, the date of commencement and practical completion of the contract work.
- 3.9 **“Customer”** means a person or organisation that has ordered/contracted to purchase goods or services from a Trade Member save that nothing in these Rules shall override the provisions of the Housing Grants, Construction and Regeneration Act 1996 in respect of non-domestic contracts.
- 3.10 **“Deposit Protection Insurance”** means an insurance policy issued by or through the Appointed Insurance Broker for the purpose of protecting any deposit paid by a Trade Member’s Customer (subject to the policy limit of up to 25% of the contract value and terms & conditions)..
- 3.11 **“DGCOS”** means The Double Glazing & Conservatory Quality Assurance Ombudsman Scheme; company number 05860672, a Company Limited By Guarantee, registered in England.
- 3.12 **“DGCOS Compensation Fund”** means the Compensation Fund scheme set up and administered in accordance with the Rules described in Appendix 2.

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- 3.13 **“DGCOS Registration Certificate”** means a Certificate which is sent to a Trade Member’s Customer on registration of the Customer’s contract with DGCOS.
- 3.14 **“Evaluation Report”** means a report produced at the request of The Board detailing aspects of a Trade Member’s performance and/or conduct.
- 3.15 **“Insurance Backed Guarantee”** means an insurance policy issued by or through the Appointed Insurance Broker for the purpose of underwriting the guarantee issued by a Trade Member to its Customer.
- 3.16 **“Prospective Customer”** means a person or organisation that has made enquiry of or contacted a Trade Member with a view to purchasing goods or services or of obtaining advice about its products or services.
- 3.17 **“Scheme Administrator”** means the company or organisation which DGCOS appoints from time to time for the supply of services and marketing materials to Trade Members and administration services to DGCOS (not including the provision of Deposit Protection Insurance, Stage Payment Insurance and Insurance Backed Guarantees).
- 3.18 **“Suspended Trade Member”** means a Trade Member which as a result of its temporary suspension is forbidden by The Board from holding itself out as a Trade Member of The Scheme.
- 3.19 **“The Board”** means DGCOS board of directors as defined in the Articles of Association of DGCOS.
- 3.20 **“The Ombudsman”** means the company or organisation which DGCOS appoints from time to time for the supply of dispute resolution and Ombudsman Services.
- 3.21 **“The Scheme”** means DGCOS.
- 3.22 **“Trade Member”** means a Trade Member as defined in the Articles of Association of DGCOS which has been accepted into The Scheme and has not retired or been expelled from The Scheme.
- 3.23 **“Trade Member under Caution”** means a Trade Member which has received a written caution due to an infringement of the Scheme Rules or on the instruction of The Ombudsman.
- 3.24 **“Trade Member’s Guarantee”** means a guarantee which has been issued by a Trade Member to its Customer.
- 3.25 **“UK National Members Committee”** means the committee set up in accordance with paragraph 5 of these Rules.



C. STRUCTURE OF THE SCHEME

4 DGCOS Membership

4.1 DGCOS has two classes of Members:

4.1.1 **Executive Members:** (defined in the Articles of Association of DGCOS) empowered to elect The Board, administer The Scheme and participate in the UK National Members Committee and any other committee, sub-grouping or working party set up by The Scheme.

4.1.2 **Trade Members:** (defined in the Articles of Association of DGCOS) invited to participate in The Scheme and empowered to elect the members of the UK National Members Committee.

4.2 A Trade Member which became a member at the inception of The Scheme and is authorised in writing by The Board may describe itself as a “Founding Member”.

5 DGCOS Management

5.1 **The Board:** responsible for the strategic direction, implementation and management of The Scheme and its committees.

5.2 UK National Members Committee:

Function

5.2.1 The UK National Members Committee shall act as a liaison between the Trade Members and The Board.

5.2.2 The committee shall monitor industry related matters and shall from time to time make recommendations to the The Board on changes in trade practices which may affect the Rules and/or administration of The Scheme.

5.2.3 The committee shall review and consider The Ombudsman’s Annual Report and may make recommendations to The Board based on the same.

5.2.4 The committee shall nominate one of its members to serve on DGCOS Compensation Fund as a co-administrator. The nominee shall serve only for as long as he/she remains a member of the UK National Members Committee and a director, officer or employee of a Trade Member.

Membership

5.2.5 The committee shall be composed of directors, officers or employees of six Trade Members (no more than one person from any Trade Member) each elected by the Trade Members by postal ballot to serve for a term of two years. One half of the committee’s membership shall retire annually but a retiring member shall not be precluded from re-election except that no member shall serve for more than two consecutive terms.

5.2.6 A committee member shall immediately resign from the committee if:

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- i) the Trade Member by whom the member is employed ceases to be a member of The Scheme or is placed under caution or suspended; or
 - ii) he/she ceases to be employed by a Trade Member; and

in either case, the vacancy so created shall be filled by election by postal ballot. Any replacement committee member shall serve only for the remainder of the term created by the resignation.

Meetings & Voting

- 5.2.7 The Board will provide Terms of Reference for the committee.
- 5.2.8 The committee shall meet at least bi-annually.
- 5.2.9 The committee, or a nominated representative or representatives, shall meet with The Board on at least one occasion each year.
- 5.2.10 At any meeting of the committee, decisions shall be made by majority vote and a quorum shall be two Trade Members.
- 5.2.11 The committee shall elect a Chairman from among its members who shall, when necessary, have an additional casting vote.
- 5.2.12 Any Executive Member of The Board shall be entitled, ex officio, to attend as an observer at any meeting of the committee or of any sub-grouping or working party thereof.

D. TRADE MEMBERSHIP

- 6 Trade Membership is open to any person, partnership or any body corporate holding itself out to the general public as an installer of double glazing, conservatory and related products.
- 6.1 Trade Membership is by invitation only and is subject to any invitee having previously passed the Accreditation Process laid down from time to time by The Board and maintaining an on-going compliance there-with.
- 6.2 On acceptance as a Trade Member, DGCOS will issue a Trade Membership Certificate by recorded delivery to the Trade Member's principal trading address as recorded by DGCOS together with written authorisation to commence trading using DGCOS promotional material.
- 6.3 DGCOS Trade Membership Certificates will be valid for a period of twelve months. A copy of a current certificate shall be on public view and prominently displayed at any and all trading premises of the Trade Member and a copy shall be carried by all sales personnel employed by or acting as agent for the Trade Member.
- 6.4 Where any of the events listed in paragraph 8 takes place with respect to a Trade Member, The Board may at its sole discretion require the Trade Member to undergo a re-accreditation process to enable The Board to decide whether the Trade Member should be permitted to continue in Trade Membership.

E TRADE MEMBERSHIP RIGHTS AND OBLIGATIONS

7 Conduct of Trading Activities

- 7.1 Every Trade Member must accept certain duties and responsibilities to its Customers, namely that:
- a) all financial dealings with the Customer are carried out in a professional manner and within the law;
 - b) all work carried out by the Trade Member will be of a high standard and the products supplied will be fit for their purpose;
 - c) no work carried out by a Trade Member will compromise or cause any collateral damage to the integrity of any existing structure; and that
 - d) all complaints will be dealt with professionally and courteously in strict compliance with the Trade Member's complaints procedure as approved by DGCOS.
- 7.2 In the course of carrying out any work, the Trade Member will ensure that its employees or its agents do not act in a manner:
- i) which compromises:
 - a) the integrity of the Trade Member;
 - b) the reputation of The Scheme;
 - c) the high professional or technical standards expected of a Trade Member;
 - ii) which is not in compliance with current legislation, British Standards or industry-accepted Guidance Notes.
- 7.3 The Trade Member shall contribute to DGCOS Compensation Fund on the basis set out in Appendix 2 to these Rules (Appendix 2: DGCOS Compensation Fund). Contributions shall be in accordance with the Fund Rules as defined in that Appendix or as amended or adjusted from time to time with the consent of the Mandate Holders (as defined in that Appendix).
- 7.4 The Trade Member throughout the period of Membership shall provide its Customers with Deposit Protection Insurance, Stage Payment Insurance and an Insurance Backed Guarantee (arranged via the Appointed Insurance Broker), a Trade Member's Guarantee and a DGCOS Registration Certificate all of which must be arranged through the Scheme Administrator.

8 On-Going Compliance

- 8.1 The Trade Member must co-operate and offer all assistance to DGCOS in its carrying out of any of the following actions to enable it to ensure on-going compliance with the Scheme Rules and with the professional standards required of a Trade Member:
- a) the comprehensive inspection of completed or on-going work, construction or installations carried out by the Trade Member and chosen from time to time at the discretion of DGCOS;
 - b) the carrying out of regular checks to confirm the on-going legal and financial status of the Trade Member, its current Directors/Proprietor(s) and to ensure, for example, its compliance with Business Names & Companies Act requirements; and

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- c) the carrying out of regular checks to confirm on-going compliance with those matters set out in the Accreditation Process; and
 - d) the compilation of any Evaluation Report on the Trade Member.
- 8.2 Should an Evaluation Report reveal that the Trade Member has failed to meet the required standards and/or recommend or require action for improvement, an increased level of monitoring will be imposed by DGCOS, the cost of which is to be borne by the Trade Member (see Appendix 1, section A: DGCOS Tariffs) and the Trade Member may be placed under Caution.
- 8.3 At all times, the Trade Member's personnel/agents, i.e. sales staff, Complaints Handler, administration staff and the managing director or proprietor(s), must have undergone DGCOS induction training.
- 8.4 For the purposes of monitoring the Trade Member's quality standards and to initiate the issuing to the Customer of a Deposit Protection Insurance Certificate, Stage Payment Insurance, an Insurance Backed Guarantee, the Trade Member's Guarantee and DGCOS Registration Certificate, each Trade Member shall submit and register the details of all of its Contracts for double glazing, conservatory and related products to DGCOS via the DGCOS Web Site within 48 hours of the customer signing the contract.
- 8.5 Failure to register any Contract or register any contract within 48 hours of the customer signing the contract will constitute a serious breach of these Rules.
- 8.6 A Trade Member shall obtain the prior approval of DGCOS before making any change to any of its documentation provided or created during or as part of the DGCOS Accreditation Process.
- 8.7 A Trade Member shall inform DGCOS immediately on the occurring of any of the following events:
- a) a change to the trading style or trading name of the Trade Member;
 - b) a change to the constitution or ownership or control of the Trade Member [meaning a change of sole trader/partners if a sole trader/partnership or, if a company, a change in the controlling shareholder(s)] or the sale of a material part of the Trade Member's business/assets to another;
 - c) any proposal that might lead to a winding up of the Trade Member;
 - d) any proposal to enter into any composition arrangement with creditors or to appoint an administrator, liquidator or receiver for the Trade Member;
 - e) a change of any trading address/registered address and/or contact details of the Trade Member;
 - f) a change of its Compliance Officer or the Complaint Handler;
 - g) a change of managing partner(s) or executive director(s) (if any);
 - h) the withdrawal or withholding or issuing with additional or abnormal terms of any licence held or required by the Trade Member in connection with the conducting of its business;
 - i) the conviction of the Trade Member or any of its directors, officers or senior managers for any criminal offence other than a motoring offence; or
 - j) the non-renewal or refusal of any Insurance Cover related to the operation of the Trade Member's business or issued with additional or abnormal terms.

- 8.8 Where a sale or transfer of the whole or a substantial part of the business or assets of the Trade Member occurs or where a Trade Member in breach of these Rules forms a new organisation incorporated or unincorporated or where the Trade Member (or any constituent or former partner, director or shareholder, or any of them) becomes a participant in a business or organisation and any of the aforementioned businesses or organisations holds itself out as, or by inference or implication can be considered to be, a continuation or assignee or a successor to the Trade Member (by whatever name), it shall ensure that such rights and obligations as exist under these Rules and the terms of its Membership Agreement and are transferable are transferred to the new business or organisation.

9 Fees

- 9.1 Trade Members shall enter into DGCOS Direct Debit system to facilitate payment of the following fees and charges in the sums decided and fixed by The Board from time to time and otherwise in accordance with Appendix 1, A: DGCOS Tariffs:
- a) the Annual Membership Subscription;
 - b) its contributions to DGCOS Compensation Fund.
 - c) any other payment or charge due to DGCOS.
- 9.2 Trade Members must, as part of any agreement with the Scheme Administrator, also enter into the Scheme Administrator's direct debit system for the collection of fees that may become due to DGCOS and which the Scheme Administrator is authorised to collect on behalf of DGCOS from time to time.

F. ADVERTISING

- 10 Trade Members shall enter into a separate agreement with the Scheme Administrator for the purpose of obtaining access to its intellectual property in DGCOS-related materials for use in connection with marketing of the Trade Members' products and services to the general public.
- 11 It is a condition of continuing Trade Membership that, not later than three months after gaining Trade Membership, the business displays the DGCOS Logo on all Customer facing documents, stationery, websites and vehicles and refers to its membership of DGCOS in all advertisements including radio/TV commercials.
- 12 A Trade Member shall take all reasonable steps to ensure that:
- 12.1 any publicity, method of advertising or marketing activity for which it is responsible is not unlawful, inaccurate, misleading, or likely to cause offence or annoyance to the public;
 - 12.2 any reference to DGCOS, and the use of any logo or design belonging to or referring to The Scheme, is strictly in accordance with DGCOS guidelines for the use of that material issued from time to time;

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- 12.3 the use of any DGCOS logo or design does not adversely affect the standing of The Scheme or its Trade Membership; and
 - 12.4 any non-compliant advertisement or publication is amended in accordance with, and within the time limit specified in, any notification by DGCOS regarding the nature and extent of the non-compliance and at no cost to DGCOS.
 - 12.5 ensure that no unethical or unduly pressurising sales methods are used.
 - 12.6 on cessation of Trade Membership for whatever reason, the use of any promotional and/or advertising media which contains DGCOS intellectual property ceases.
 - 13 A Trade Member shall not:
 - 13.1 explicitly or implicitly claim to represent the views of DGCOS without The Board's written authority;
 - 13.2 use material to publicise its Trade Membership of The Scheme that is not in accordance with the DGCOS guidelines (which is located in the members area of the DGCOS website);
 - 13.3 advertise or promote itself as a Trade Member when not permitted to do so by these Rules, and so doing will constitute a serious breach of The Scheme Rules.

G. TERMS OF BUSINESS

14 Status and Designations

- 14.1 A Trade Member shall ensure that any published list of its partners, directors or key management personnel or staff does not misrepresent the status, position or qualification of any person named.

15 Notification of Terms of Business

Prior to the taking of an order or the conclusion of a sale and/or contractual agreement, a Trade Member shall:

- 15.1 provide its Customer or Prospective Customer with written notification of the contractual terms on which the transaction is to be undertaken. The terms of business must be those previously deposited with DGCOS; and
- 15.2 inform its Customer or Prospective Customer that details of the Trade Member's Complaints Handling Procedure are available and will be provided on request at any time.

16 Timeliness in Handling Customers' Business

- 16.1 A Trade Member shall act with due diligence on behalf of its Customers and shall reply promptly to correspondence. Response times should be in accordance with the Trade Member's Terms & Conditions previously deposited with DGCOS and DGCOS procedures relating to remedial work and complaints handling.



H. INSURANCES

- 17 Trade Members must hold insurance policies, with an insurer authorised to provide insurance policies in the UK, in respect of the following matters and shall, at all times, carry at least the minimum amount of cover specified from time to time by statute or by DGCOS, whichever is the higher (the “Relevant Policies”):
 - 17.1 Public Liability Insurance; and
 - 17.2 Employers Liability Insurance.
- 18 A copy of a Certificate of Insurance for each of the Relevant Policies shall be provided by the Trade Member to DGCOS during the Accreditation Process and at each renewal date throughout its period of membership and/or as otherwise required by these Rules. Trade Members shall provide DGCOS with details of any changes to such policies immediately.
- 19 Failure to comply with the requirements of any part of this section (section H) will constitute a serious breach of the Rules.

I. TRADE MEMBER COMPLAINT HANDLING PROCEDURE

- 20 A Trade Member shall operate a formal procedure in accordance with the provisions set out below for dealing with complaints from Customers or Prospective Customers or any person to whom, in the opinion of The Board or The Ombudsman, a duty of care is owed.

21 *Customer Information Regarding Complaints Handling Procedure*

- 22 Every Customer or Prospective Customer, on request, shall be provided with a document:
 - i) setting out the following information:
 - a) the name and contact details of the person with whom initial and on-going contact should be made in the event of a complaint, i.e. the Trade Member’s Complaint Handler;
 - b) a timescale for the sending of a written acknowledgement of a complaint;
 - c) details of the timescale within which the outcome of an investigation of the complaint will normally be completed; and
 - ii) stating that:
 - a) the Trade Member will advise any complainant at the earliest opportunity if it considers it will be unable to meet its normal time scale for the investigation of complaints, will give reasons for the same and will advise the complainant of the new anticipated date of completion of the investigation(s);

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- b) where dissatisfied with the progress of a complaint, the Customer has the right to request assistance from DGCOS. This will normally take the form of investigation and/or an attempt at settlement by conciliation or mediation by DGCOS on the Customer's application to DGCOS,
 - c) if an attempt at conciliation or mediation fails to resolve the complaint/dispute, the Customer may, at any time, require that the matter be referred to The Ombudsman with a request for a review or for a formal intervention and a binding decision;
 - d) the Customer may, at any time, register a formal complaint directly with The Ombudsman (although it would be normal for all of the processes set out above to have been exhausted before such a direct reference is made);
 - e) The Ombudsman is entirely independent of the Trade Members and is located at Aegon House, Daresbury Park, Warrington, WA4 4HS. Please see point 25.4;

23 Complaint Receipt and Recording

- 23.1 If a Customer or Prospective Customer wishes to make a formal complaint, the Trade Member shall ask for the details of the complaint to be set out in writing and addressed to the Trade Member's Complaint Handler in order to allow the scope of the complaint to be defined and to give the Trade Member the opportunity to respond and deal with specific issues.
- 23.2 A log of all written complaints (The Complaints Directory) must be kept by the Complaint Handler together with details of all communications with the Customer with respect to the complaint (the "Tracking Form").
- 23.3 The Complaints Directory and Tracking Forms shall be made available for inspection at any time by DGCOS or The Ombudsman.
- 23.4 The Complaint Handler shall be responsible for handling the complaint, progressing the complaint and for recording in writing details of all communications with the Customer within the Complaints Directory and Tracking Forms.

23.5 Acknowledgement

- 23.5.1 All complaints shall be acknowledged in writing within not more than three working days of being received by the Complaint Handler.
- 23.5.2 The complainant should be advised in the letter of acknowledgement of the following:
 - a) receipt of the complaint by the Trade Member;
 - b) the Trade Member's internal complaints procedure;

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- c) the DGCOS complaints procedure;
 - d) the identity and contact details of the nominated Complaint Handler;
 - e) the date by which the Trade Member will send a detailed response to the complainant setting out the specific actions that will be taken to respond to the complaint ("Detailed Response") and the anticipated timescale if the specific matters of which complaint is made are not addressed in the letter of acknowledgment.

23.6 Detailed Response

- 23.6.1 A Detailed Response should usually be provided in writing to the Customer within thirteen working days of the date of receipt of the formal written complaint and should be a final disposition of the matter.
- 23.6.2 The Complaint Handler without undue influence from any other person within the Trade Member will decide the most appropriate Detailed Response depending upon the seriousness or urgency of the complaint and:
 - i) if a Detailed Response cannot be provided within the originally specified timescale, shall inform the complainant of the new anticipated timescale and the reason for the delay; or
 - ii) if an investigatory visit is required, the Complaint Handler and the complainant should liaise to set up an appointment that is convenient for both parties. Where reasonably practicable this appointment should take place within 10 working days of advising the Customer of the need for an investigatory visit.

24 Final Response

- 24.1 Where the situation envisaged in 23.6.2(i) occurs, the Complaint Handler should endeavour to provide a Final Response in writing to the Customer within not more than a further ten working days.
- 24.2 Where the situation envisaged in 23.6.2(ii) occurs, the Complaint Handler should endeavour to provide a Final Response in writing to the Customer within five working days of the date of carrying out the investigatory visit.

25 Further Action & Costs of Investigation of Complaints

- 25.1 Where the matters of which complaint is made are disputed by the Trade Member and/or an agreed resolution of the dispute is not possible within a reasonable timescale, the Complaint Handler or the complainant may contact DGCOS to arrange for a conciliator/mediator to investigate the complaint and seek to broker an agreed resolution.
- 25.2 Should any part of the complainant's case be considered by the conciliator/mediator or The Ombudsman to have merit, the Trade Member will be responsible for the payment of costs as detailed in Appendix 1, A: DGCOS Tariffs, save that The Board, at its sole discretion, may agree to waive or reduce the amount of any fee to be paid by the Trade Member under this provision.

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- 25.3 In any exercising of its discretion, The Board will usually look to establish what proportion of responsibility for aggravating or prolonging the resolution of the complaint or dispute lies with the Trade Member and use this to determine a percentage reduction in the charge, i.e. if The Board assesses the Trade Member to be 20% responsible as described above, then the Trade Member will pay 20% of the charges in Appendix 1, A: DGCOS Tariffs.
- 25.4 Where conciliation/mediation is not considered appropriate by either party or the conciliation/mediation fails to bring the matter to a conclusion, the complainant may refer the matter to The Ombudsman. Trade Members are obligated to adhere to the Terms of Reference and rules of the Ombudsman appointed by DGCOS. The terms of reference of the Ombudsman may change from time to time and the latest version should be viewed by the member using this link:
<http://www.ombudsman-services.org/governance-os.html>
- 25.5 Where a complainant requests The Ombudsman's involvement in a complaint, the Trade Member shall co-operate with The Ombudsman, his or her officers or any other persons appointed by The Ombudsman to assist and shall participate (and through membership of The Scheme has agreed to participate) in any subsequent process and shall abide by the decision of The Ombudsman.

J. GUARANTEES

- 26 To ensure that DGCOS Deposit Protection, Stage Payment Insurance and Insurance Backed Guarantee Schemes apply to, and cover, each Customer's order/contract:
- a) Trade Members must register each order/contract within 2 working days of the order/contract being signed by the Customer to ensure the issue of the Deposit Protection Certificate; and
 - b) upon satisfactory completion of the work, and all properly due and payable sums having been paid, the Trade Member must print for each Customer its Guarantee from the DGCOS website and forward it to the Customer within 5 working days together with a formal acknowledgement of receipt of the monies paid.

K. TRADE MEMBER DISCIPLINE

- 27 If, as a result of a matter revealed in the course of an evaluation or investigation or during the handling of a complaint or otherwise coming to the attention of DGCOS there are any areas of non-compliance with these Rules, DGCOS may, at its sole discretion:
- 27.1 advise the Trade Member in writing of a problem or default to be rectified;
 - 27.2 where the Trade Member fails to respond to the advice within 14 days and/or fails to rectify the default within the period specified, issue a written warning to the Trade Member setting out required actions and specific timescales for compliance;
 - 27.3 place the Trade Member under Caution where the Trade Member fails to comply with the warning. The Caution will remain in place for the monitoring period set out in the



written notification. After satisfactorily demonstrating rectification of the infringement or non-compliance, the Caution will be lifted and the Trade Member under Caution will be reinstated to full Trade Member. Normally details of the Caution will not be communicated by DGCOS to any third party unless so ordered by The Ombudsman;

- 27.4 where the Trade Member under Caution fails to satisfactorily demonstrate rectification of the infringement or non-compliance, issue a final written warning setting out the extent to which it has failed to demonstrate rectification of the infringement or non-compliance, suspending the Trade Member and warning that failure to comply within the time specified will lead to expulsion from The Scheme;
- 27.5 where, in relation to any consideration of a matter or issue covered by paragraph 27, DGCOS considers the matter or issue to be so serious as to warrant it, immediately suspend the Trade Member pending further investigation of the alleged or apparent non-compliance, and advise the Trade Member in writing of that fact;
- 27.6 where DGCOS considers a matter or issue covered by paragraph 27 to be both serious and incapable of rectification, immediately inform the Trade Member in writing of that fact and expel the Trade Member from membership of the Scheme.
- 28 Where a Suspended Trade Member fails to rectify the outstanding matters set out in the final written warning, or any part of them, within the time limit specified it will be automatically expelled from The Scheme and DGCOS will notify the Trade Member of that fact in writing.
- 29 Where suspended, a Trade Member is prevented from purporting Membership of The Scheme, but remains a Member of The Scheme and bound by The Scheme Rules.
- 30 In the event of a Suspended Trade Member's subsequent expulsion from The Scheme, the expelled Trade Member shall receive no refund of any unexpended balance of the Annual Membership Subscription. Re-instatement will be at the sole discretion of The Board.
- 31 The Board, at its sole discretion, may publicise details of a Trade Member's suspension or expulsion from The Scheme and must publicise details of a Trade Member's suspension or expulsion from The Scheme if so ordered by The Ombudsman.
- 32 Failure to comply with the requirements of any matter identified in a warning issued under the provisions of paragraphs 27.4 or 29 will constitute a serious breach of these Rules.

33 Recovery

- 33.1 In the event of the Trade Member's serious breach of these Rules, the Trade Member will incur an additional administration charge in respect of any necessary monitoring and/or administrative action carried out by DGCOS. (see Appendix 1, A: DGCOS Tariffs)
- 33.2 DGCOS may take legal action against a Trade Member or former Trade Member for recovery of any unpaid fees and any other contingent losses incurred by DGCOS as a result of the Trade Member's acts and/or omissions.
- 34 A Trade Member aggrieved by any DGCOS decision in respect of any of the actions mentioned in sections 27, 28, 29 & 30 has a right of appeal directly to The Board.

L. RESIGNATION & TERMINATION OF TRADE MEMBERSHIP

- 35 A Trade Member may withdraw from The Scheme at any time by giving at least one calendar month's notice in writing to DGCOS sent by recorded delivery to its registered offices. A copy of the cancellation letter must be retained by the Trade Member to be produced in evidence should such evidence be requested by DGCOS. There will be no refund of the unexpended balance of the Annual Membership Subscription.
- 36 The membership of any Trade Member which is a body corporate shall terminate immediately on the happening of any of the following:
- 36.1 entering into any composition or arrangement (whether formal or informal) with its creditors; or
 - 36.2 becoming the subject of a voluntary arrangement within the meaning of Section 1 of the Insolvency Act 1986 or any statutory modification or re-enactment thereof; or
 - 36.3 becoming unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or any statutory modification or re-enactment thereof; or
 - 36.4 the appointment of a receiver manager, administrator or administrative receiver in respect of the Trade Member's undertaking, assets or income or a substantial part thereof; or
 - 36.5 the passing of a resolution for the winding-up of the Trade Member or of its having a petition presented to any Court for its winding-up or the Trade Member's ceasing, or threatening to cease, to carry on its business.
- 37 The membership of any Trade Member which is an individual or a body unincorporate shall terminate immediately on the happening of any of the following:
- 37.1 the Trade Member or any of its constituent members:
 - a) being made bankrupt; or
 - b) having a receiver or manager appointed to control assets or property or a mortgagee entering into possession of such;
 - 37.2 the Trade Member and/or any of its constituent members applying to the Court for an Interim Order pursuant to Section 253 of the Insolvency Act 1986 or any statutory modification or re-enactment thereof.
- 38 The Board may by resolution expel a Trade Member if the Trade Member has failed to pay any subscription or to make any other payment to DGCOS in accordance with the Rules and does not make any such payment within 14 days of demand being made on it by DGCOS.
- 39 The Board may by resolution expel a Trade Member if the Trade Member has failed to provide any material information to DGCOS during the accreditation process or fails to provide such information in response to any subsequent request made under



paragraph 8 of these Rules or, if the Trade Member commits a material or persistent breach of the Rules or if a Trade Member does anything which in the opinion of The Board brings or is likely to bring DGCOS into disrepute, such as, by way of example but not exclusively, consistently not complying with statutory requirements, regulations or related technical standards or publicly making statements which are contrary to those set by The Board or failing to abide by a decision of The Ombudsman.

- 40 On or subsequent to a Trade Member's cessation of membership of DGCOS (for whatever reason) these Rules shall still have effect in relation to any matter arising out of or caused by the application of the Rules or in respect of any work carried out or contractual obligation accepted by the Trade member during its period of membership of DGCOS as set out in paragraph 1.3 of these Rules.

M RIGHTS OF THIRD PARTIES

- 41 Save that persons mentioned in these Rules as Customers or Prospective Customers of Trade Members are intended to take the benefit of the Trade Member's irrevocable agreement to comply with these Rules and to concur and participate in the reference of any complaint or dispute for decision by The Ombudsman at the sole request of a complainant, a person who is not a party to this agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement. This does not affect any right or remedy of a third party which exists or is available apart from under that Act.

N GOVERNING LAW AND JURISDICTION

- 42 These Scheme Rules and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the law of England and Wales.
- 43 The Trade Member irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with these Scheme Rules or its subject matter or formation (including non-contractual disputes or claims).



APPENDICES

- Appendix 1 - Tariffs & Payments
- Appendix 2 - DGCOS Compensation Fund

TARIFFS & PAYMENT**A. DGCOS Tariffs****A1 Membership**

Initial Accreditation Fee	£ 1.00
Annual Member Subscription	£ 695.00

A2 *Dispute Resolution: (the following are free to Trade Members unless Scheme Rules have been contravened)*

Conciliation/Mediation (per hour)	£ 45.00
Independent Inspection Report (each)	£ 475.00
Contribution to the costs of a reference to The Ombudsman for decision of a complaint/dispute (per case)	£ 825.00
Contribution to the costs of an Ombudsman's Inspection (if any)	£ 475.00

A3 Additional Administrative Charges*(Only applied if in contravention of The Scheme Rules)*

Preparation of Evaluation Report (each)	£ 475.00
Re-accreditation Fee	£ 550.00
Monitoring or administration resulting from a serious breach of these rules (per hour)	£ 45.00
Administering the re-establishing of adequate insurance cover (per instance).	£ 500.00

B. Payments to DGCOS

B1 At all times Trade Members shall enter into DGCOS Direct Debit system to facilitate payments due to DGCOS. This process will be governed by DGCOS's bankers Direct Debit Rules. A copy of these Rules will be supplied to the Trade Member on request and prior to signing of the mandate.

B2 The costs of any Inspections, Conciliations/Mediations, referral to The Ombudsman and/or any other fees (see Section A: DGCOS Tariffs) completed within the previous month will be included in that period's statement and will be collected via the direct debit system. Written confirmation of the costs will be forwarded to the Trade Member in line with the Direct Debit Rules. If for any reason these costs cannot be collected via the Direct Debit system, an invoice will be forwarded to the Trade Member or former Trade Member which must be paid within 30 days of issue. Failure to comply will incur interest at the rate of 5% above the current Bank of England base rate after the expiry of the said 30 days and compounded monthly.

- NOTE:** 1) *All of the above tariffs and charges are subject to VAT at the prevailing rate at the time of invoicing.*
- 2) *Reference should be made to paragraph 25.3 for details of the principles to be applied in the application of Fees & Tariffs*

DGCOS COMPENSATION FUND RULES

BACKGROUND

The appointed Scheme Administrator provides administrative support to DGCOS (“**The Scheme**”), of which the Trade Member is a member.

Upon joining The Scheme every **Trade Member** agrees to pay a sum of money into a Compensation Fund to be used in discharging any undischarged Ombudsman Awards under the DGCOS Scheme or the associated scheme and for the other purposes set out in the DGCOS Compensation Fund Rules (“**the Fund Rules**”)

The Fund Rules make provision for the maintenance and operation of a bank account separate from the trading bank accounts of the parties for the purpose of administering the Compensation Fund.

The consent of the Ombudsman (acting in its absolute discretion) is required for any payment out of the Compensation Fund or amendment to these Fund Rules.

OPERATIVE PROVISIONS

AGREED TERMS

1. DEFINITIONS AND INTERPRETATION

- 1.1 The definitions and rules of interpretation in this clause apply in this Agreement as follows;

“**Award**”: A written decision by The Ombudsman which

- i. orders a payment to be made by a Trade Member; or
- ii. where a Trade Member has been declared bankrupt or has become insolvent and has ceased trading or has been removed from the statutory register of companies, certifies
 - a. that payment would have been ordered to be made by a Trade Member, and
 - b. the proportion of that payment that is irrecoverable from insurance or other sources

“**Commencement Date**”: the date of commencement of the Trade Member’s membership of The Scheme



“Compensation Fund”: the aggregate of all monies held in the Compensation Fund account from time to time, comprising the total of all monies received from Trade Members as defined in the Fund Rules (and any interest received on such monies) less monies paid out of the Fund Account from time to time in accordance with the Fund Rules.

“Customers”: Customers of Trade Members as defined in The Scheme’s Rules.

“Estimated Monthly Installation Value”: 1/12th of the estimated value of the relevant Trade member’s relevant installations for the following 12 months (the initial such estimate being the figure agreed with The Scheme Administrator prior to becoming a Trade Member)

“Fund Account”: the deposit account opened in the joint names of DGCOS and the appointed Scheme Administrator and or such replacement bank account as may be agreed from time to time between the account holders.

“Initial Contribution”: the initial contribution to the Compensation Fund agreed to be paid on behalf of the Trade Member (being 40% of the Estimated Monthly Installation Value)

“Mandate Signatories”: the authorised signatories on The Compensation Fund Account from time to time as determined in accordance with Schedule 1.

“Parties”: means DGCOS, The Scheme Administrator and any relevant Trade Member(s).

“Prospective Customer”: prospective Customers of Trade Members as defined in The Scheme Rules.

“Retention Period”: a period of 12 months after the Trade Member’s membership of The Scheme has ended

“Scheme Administrator” means the company or organisation which DGCOS appoints from time to time for the supply of services and marketing materials to Trade Members and administration services to DGCOS (not including the provision of Deposit Protection Insurance, Stage Payment Insurance and Insurance Backed Guarantees).

“Trade Member’s Fund Amount”: The Compensation Fund Amount for a Trade Member, calculated in accordance with these Rules or analogous agreement

References to clauses and schedules are to the clauses of and schedules to the Fund Rules.

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- 1.2 Headings are for convenience only and shall be ignored in interpreting this agreement.
 - 1.3 Words or phrases used shall, where the context permits, have the same meaning as defined in the Rules of The Scheme

2. PAYMENT OF INITIAL CONTRIBUTION AND TERMS OF BANK MANDATE

- 2.1 The Trade Member shall pay the Initial Contribution to The Scheme Administrator prior to the membership Commencement Date and, forthwith upon receipt of the same in cleared funds, The Scheme Administrator will pay the same into the Fund Account.
- 2.2 For the avoidance of doubt, that part of the Compensation Fund contributed by or on behalf of a Trade Member from time to time is to be held under the terms of the Fund Rules and not at the direction of the Trade Member or any other single party.
- 2.3 The Compensation Fund Account is at all times operated in accordance with the Fund Rules.
- 2.4 No payment shall be made out of The Fund Account except in accordance with the terms of the Fund Rules.
- 2.5 Notwithstanding any other provision of these Fund Rules, no payment shall be made out of The Fund Account except with the consent of the Ombudsman (acting in his absolute discretion).

3. DURATION AND TERMINATION

- 3.1 These Fund Rules shall come into effect on the Commencement Date and shall continue until all the obligations of the Parties under them have been discharged.
- 3.2 Any interest paid from time to time on the monies comprised in the Compensation Fund, shall be added to the Compensation Fund on such dates as the accountants for The Scheme Administrators may decide (but in any event no less often than once in every 12 month period) and each Trade Member's Fund Amount shall then be increased in the same proportions as the value of each of their Fund Amount has to the whole Compensation Fund immediately prior to such application of interest.
- 3.3 Subject to 2.5 and 3.4, upon expiry of the relevant Retention Period, a Trade Member shall be entitled to receive a payment equal to the Trade Member's Fund Amount.
- 3.4 If, at the end of the relevant Retention Period, there are any outstanding or ongoing disputes or claims involving the Trade Member which may need to be paid out of the Compensation Fund, any calculation of the Trade Member's Fund Amount or payment



of the same to the Trade Member under 3.3 above may, at the absolute discretion of The Scheme Administrator be delayed until the position is clarified.

4. USE OF COMPENSATION FUND MONIES

- 4.1 Under the terms of The Scheme, The Ombudsman (as defined in DGCOS Scheme Rules) has the power to make financial awards and/or other decisions against Trade Members in relation to payment of compensation, costs or other matters (together **'Awards'**). Upon any payment due under such Awards not being made in accordance with its terms, the successful party must use its best endeavours to procure payment of such Awards outwith the Compensation Fund and as a last resort may make application to the Compensation Fund for a discretionary payment in lieu.
- 4.2 In cases of Awards against Trade Members, payments out of the Compensation Fund shall be allocated as follows:
- a) Firstly, against the relevant Trade Member's Fund Amount as far as possible; then, if there remains a balance outstanding after the relevant Trade Member's Fund Amount is exhausted;
 - b) Against each other Trade Member's Fund Amount in the same proportions as the value that each of their Fund Amounts has to the whole Compensation Fund
- 4.3 In cases of Awards against Trade Members, in order that the Compensation Fund is replenished, The Scheme Administrator shall then issue a demand to the relevant Trade Member for any amount paid out of the Compensation Fund in respect of the relevant Award. This amount is to be paid into the Compensation Fund account by the Trade Member forthwith upon receipt of demand.
- 4.4 Upon receipt of monies under clause 4.3 the same shall be allocated to increase:
- a) first, until any reduction allocated against that Trade Member's Fund Amount under 4.2(b) has been reversed, each other Trade Member's Fund Amount in the same proportions as the value of each of their Fund Amounts has to the whole Compensation Fund; and
 - b) then the relevant Trade Member's Fund Amount.
- 4.5 In cases of Awards made in favour of Trade Members and subject to the provisions of 4.1, payments out of the Compensation Fund shall be allocated against each Trade Member's Fund Amount in the same proportions as the value of each of their Fund Amounts has to the whole Compensation Fund and the relevant Trade member shall assign the benefit of the Award at the discretion of The Scheme Administrator to facilitate the pursuing of the person against whom the Award was made (if it so decides at its absolute discretion) in order to replenish the Compensation Fund.

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- 4.6 The Compensation Fund may also be used to pay the legitimate costs and expenses of the Parties and their advisers in setting up, administering and/or winding-up the Compensation Fund (including enforcing the terms of these Fund Rules). These payments shall be allocated against Trade Members' Fund Amounts and, in the case of costs incurred in enforcing the Fund Rules against a Trade Member, these costs shall be allocated and replenished in the same manner as payments of Awards made against that Trade Member.
- 4.7 For the purposes of the provisions of paragraphs 3 & 4 above, unless The Scheme Administrator's accountants wish (in their absolute discretion) to use a more up to date calculation, the aggregate amount of the Compensation Fund shall be deemed to be that shown in the most recent account statement for the Fund Account.

5. TOP UP

- 5.1 Any Trade Member's Estimated Monthly Installation Value may be reviewed from time to time at the request of any Party. On such review the Parties will use their best endeavours to agree a new Estimated Annual Installation Value. If the Parties cannot agree within 30 days the matter shall be referred to the Fund Manager for determination as expert and the parties agree to be bound by his decision. The Scheme Administrator shall then make such consequential adjustment to the aggregate amount of money which should be held as the Trade Member's Fund Amount as it may in its reasonable opinion think fit (and shall also be free to take into account any pending or likely claims against that Trade Member) ('the Adjusted Amount'). Any return of monies to or additional top-up payment required from the Trade Member to make the actual Trade Member's Fund Amount the same as the adjusted amount shall be made within 14 days of such adjustment.
- 5.2 The Scheme Administrators will undertake an annual review of the Compensation Fund. If the Compensation Funds' level is such that The Scheme Administrator believes, in its absolute discretion, that additional contributions to the Compensation Fund are desirable, they shall require Trade Members to pay the same in proportion to the value of each of their Initial Contributions (save that if a Trade Member has had its Initial Contribution amended the figure used shall be the adjusted amount). However, sums demanded under this provision in any 12 month period shall not exceed 25 per cent of the said Initial Contribution amount (or of the then current adjusted amount if an adjustment has been made under clause 5.1 above)

6. INTEREST

- 6.1 If the Trade Member fails to comply with its obligations to pay monies under the Fund Rules, then interest shall accrue daily on the amount outstanding at the higher of 7% per annum or Bank of England Base rate from time to time plus 5%.



7. INDEMNITY

- 7.1 The Trade Member shall fully indemnify the other parties and their assignees in respect of any costs and expenses incurred in enforcing its obligations under the Fund Rules.
- 7.2 All parties shall jointly and severally fully indemnify the Ombudsman and the partners against any and all costs liabilities and claims howsoever arising (**'Claims'**) in relation to the operation of the Compensation Fund and the Fund Account or otherwise under this agreement (save that such indemnity shall not have effect to the extent to which such Claims are caused by the fraud of the said persons).

8. ASSIGNMENT

- 8.1 Should the Trade Member become obliged to pay a sum of money under the Fund Rules, and such payment not be paid within 14 days of demand, DGCOS shall be entitled to assign the debt to The Scheme Administrator or otherwise as it may decide in order that the assignee may take debt recovery action against the Trade Member.
- 8.2 Save for assignment of debts under 8.1 above, no Party shall without the prior written consent of the Mandate Signatories assign, transfer, charge or deal in any other manner with the Fund Rules or its rights under it or part of it, or purport to do any of the same, nor sub-contract any or all of its obligations under the Fund Rules.

9. FORCE MAJEURE

- 9.1 The obligations of each Party under these Fund Rules shall be suspended during the period and to the extent that that Party is prevented or hindered from complying with them by any cause beyond its reasonable control including (insofar as beyond such control but without prejudice to the generality of the foregoing expression) strikes, lock-outs, labour disputes, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm, difficulty or increased expense in obtaining workmen, materials, goods or raw materials in connection with the performance of this agreement.
- 9.2 In the event of any Party being so hindered or prevented, the Party concerned shall give notice of suspension as soon as reasonably possible to the other party stating the date and extent of the suspension and its cause, and the omission to give such notice shall forfeit the rights of that party to claim suspension. Any Party whose obligations have been suspended as aforesaid shall resume the performance of those obligations as soon as reasonably possible after the removal of the cause and shall so notify the other Parties. In the event that the cause continues for more than 90 days any Party may terminate this agreement on 30 days notice.



10. AMENDMENTS

Save as expressly provided in the Fund Rules, no amendment or variation of the Fund Rules shall be effective unless in writing and signed by a duly authorised representative of each of the Mandate Signatories and the Ombudsman.

11. WAIVER

The failure of a Party to exercise or enforce any right under the Fund Rules shall not be deemed to be a waiver of that right, nor operate to bar the exercise or enforcement of it at any time or times thereafter.

12. SEVERABILITY

If any part of the Fund Rules becomes invalid, illegal or unenforceable, the Mandate Signatories shall seek to agree the terms of a mutually satisfactory provision to be substituted for the invalid, illegal or unenforceable provision which as nearly as possible validly gives effect to their intentions as expressed in the Fund Rules.

13. NOTICES

Any notice required to be given pursuant to this the Fund Rules shall be in writing and shall be given by delivering the notice by hand at, or by sending the same by prepaid first class post (airmail if to an address outside the country of posting) to, the address of the relevant Trade Member as set out in The Scheme Rules or such other address as either party notifies to the other from time to time. Any notice given according to the above procedure shall be deemed to have been given at the time of delivery (if delivered by hand) and when received (if sent by post).

14. RIGHTS OF THIRD PARTIES

Save that the Ombudsman may enforce clauses 2.5 and 10 above against any of the parties and that the persons mentioned in clause 7.2 above are intended to take the benefit of the indemnity set out in that clause and all parties agree that they may enforce the same, a person who is not a party to this agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Fund Rules. This does not affect any right or remedy of a third party which exists or is available apart from under that Act.

15. GOVERNING LAW AND JURISDICTION

- 15.1 Any question of interpretation, application or effect of these Fund Rules shall be determined by The Ombudsman in the same manner as any complaint by a Customer and, where the matter at issue concerns an alleged breach of paragraph 8.8 (of The Scheme Rules) affecting the rights of any person intended to have the benefit of that provision, it shall be, and is hereby, referred directly to The Ombudsman for a decision in like manner.

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- 15.2 These Fund Rules shall be governed by and construed in accordance with English law and, in respect of all matters of their application and interpretation, each party hereby irrevocably submits to the jurisdiction of The Ombudsman.



Schedule 1

Terms of Mandate:

The Mandate Signatories shall comprise:

John Richard Christie (appointing body DGCOS)

Anthony Roy Pickup (appointing body The Scheme Administrator)

Change of Mandate

From time to time by notice to the Bank and the other Mandate Signatories, a relevant appointing body may change its Mandate Signatory

**The Double Glazing & Conservatory
Quality Assurance Ombudsman Scheme**

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