

General Terms and Conditions

I.

Introduction

1. These General Terms and Conditions (hereinafter also the “GTC”), issued by **ECOBAT s.r.o.**, a company with its registered office in Prague 6, Soborská 1302/8, Postal Code 160 00, Id. No.: 267 25 967, registered in the Commercial Register kept by the Municipal Court in Prague, Section C, Inset 89816 (hereinafter the “Operator”), regulate the legal relationships between the Operator and the individual producers of batteries and accumulators (hereinafter the “Producer” or “Producers”) who have already concluded or will conclude an Agreement on Joint Performance with the Operator pursuant to Section 31k (1) (c) of Act No. 185/2001 Coll., on waste and on amendment to some other laws, as amended (hereinafter the “Waste Act”); the Agreement on Joint Performance is hereinafter referred to only as the “Agreement”.
2. Where these GTC or the Agreement refers to the Agreement, the reference means the Agreement including the GTC and annexes, unless explicitly stipulated otherwise.
3. These GTC use terms as defined in the Agreement or as defined by the applicable legal regulations, as appropriate.
4. By concluding the Agreement on Joint Performance, the Producer solemnly declares that it is a producer of batteries within the meaning of the Waste Act. As a result of this fact, the Producer is obliged to provide for take-back of these batteries and is obliged to ensure that waste batteries are recovered within the scope stipulated by the Waste Act, and also bears further duties stipulated by the Waste Act.

II.

Fee and Payment Terms

1. Neither the prices nor the advance payments pursuant to the Agreement include VAT or any similar tax, unless explicitly stipulated. Should the Operator incur the duty to apply such taxes upon provision of the performance hereunder (as of the date of issue of these GTC, this includes the duty to pay VAT), the other party agrees to reimburse the former for the thus-levied taxes beyond the scope of the prices (advance payments) pursuant to the Agreement. Such taxes, at their statutory rate, shall be separately specified in the relevant invoices.
2. The payments shall be effected on the basis of invoices. The invoices must comply with all the requisites of tax and accounting documents as required by the applicable legal regulations. All the payments made in money on the basis of the Agreement shall be effected in Czech korunas (CZK) and, as a rule, all the prices shall also be specified in this currency. The period of maturity of the fee shall equal 30 calendar days from the date of issue of the invoice; if the Producer delivers the report to the Operator with delay, the period of maturity of the invoice shall be reduced to 10 calendar days from the date of issue.
3. The services for which the fee is paid are provided in individual periods pursuant to the VAT Act. An individual period in respect of the services for which the fee is paid corresponds to a calendar quarter; should the Agreement exist for only part of a calendar quarter, the relevant individual period shall correspond to the part of the calendar quarter in which the Agreement existed. Unless stipulated otherwise, the services for which the fee is paid shall be deemed to be provided, in terms of the VAT Act, as of the last day of the calendar month preceding the date of delivery of the Report to the Operator; in case of delay in delivery of the Report, the services for which the fee is paid shall be deemed to be provided, in terms of the VAT Act, as of the date of delivery of the Report to the Operator. Within fifteen (15) calendar days from the date of taxable supply, the Operator shall issue a tax document for the individual supply.
4. Payments in money shall be payable by wire transfer into the Operator’s account set out in the Agreement or into some other account as determined by the Operator in writing. In mutual payments, the Parties agree to use the relevant variable symbols provided that they are specified in the invoice (tax document). The bank charges on either part shall be borne by the respective Party.
5. The date of crediting the corresponding financial amount to the bank account of the Party that is the creditor shall be deemed to be the date of payment. If the last day of the period of maturity is a holiday (Saturday, Sunday, public holiday or some other holiday pursuant to Act No. 245/2000 Coll., as amended), the period of maturity shall be extended to include the next business day.
6. Should the date of maturity set out on the invoice differ from the date of maturity stipulated by the Agreement, the date of maturity stipulated by the Agreement shall prevail.
7. A tax document may also be issued in electronic form; the Operator shall be obliged to issue it in compliance with the requirements set by a special regulation.

8. For the period of the Producer's delay in payment of the fee, the Operator shall not be in delay with its own performance.

III.

Extraordinary Report

1. In cases where the Producer mistakenly specifies, in the Report, a quantity of batteries other than the Producer actually placed on the market in the given calendar quarter, the Producer shall be obliged to submit, to the Operator, an extraordinary Report for the relevant quarter; unless specified otherwise, the extraordinary Report shall be subject to the rules for the submission of Reports pursuant to this Article.
2. The Producer shall be obliged to submit the extraordinary Report not later than within six months from the end of the calendar quarter for which the extraordinary Report is being submitted; if the extraordinary Report is being submitted for the third calendar quarter (the months of July to September), the deadline for the submission of the extraordinary Report shall be reduced to 5 months and, if the extraordinary Report is being submitted for the fourth calendar quarter (the months of October to December), the deadline for the submission of the extraordinary Report shall be reduced to two months. If it follows from the extraordinary Report that the Operator is entitled to a higher amount of fee, the Producer shall be obliged to pay, to the Operator, also default interest on this increase at the rate stipulated by the GTC for the period from the date on which the Report was to be submitted at the latest with respect to the quarter for which the extraordinary Report is submitted to the date of submission of the extraordinary Report to the Operator. If the extraordinary Report is submitted duly and in time and the outstanding fee and default interest is paid duly and in time, the entitlement of the Operator to a contractual penalty for the provision of untrue or incomplete information pursuant to the GTC shall expire. A delay in the submission of the Report or extraordinary Report shall not relieve the Producer of the obligation to duly report all batteries placed on the market and pay a fee for these batteries.
3. The Producer shall be entitled to raise an objection that (s)he/it placed on the market a lower quantity of batteries or different types of batteries than specified in the Report only by virtue of a correction Report within the deadlines specified above. A late objection cannot be taken into consideration due to the fact that, on the basis of the Report, the Operator provides regular performances pursuant to the Agreement, even if the Producer subsequently ascertains that (s)he/it has not placed on the market any batteries whatsoever.
4. The provisions of Art. III shall apply analogously also if the batteries or accumulators placed by the Producer on the market in the Czech Republic were exported outside of the territory of the Czech Republic prior to their use by the end user or distributor.

IV.

Audit

1. The Producer shall be obliged to tolerate the performance of an audit to verify the performance of the Agreement by the Producer on the basis of a request of the Operator. The Operator shall not be entitled to request that an audit be performed at the Producer more often than once every 6 months; this shall not apply if the last audit revealed breach of the Producer's obligations or if the performance of the audit is initiated by the Ministry of the Environment or some other authority.
2. The audit shall be concerned particularly with assessment as to whether the Producer provides the Operator with complete and true information, whether the Producer duly pays the Operator a fee in accordance with the Agreement and whether the Producer fulfills his/her/its statutory duties in respect of all the batteries and accumulators which (s)he/it places on the market.
3. The audit shall be performed by an auditor designated by the Operator. The Operator shall be obliged to publish, on the Internet (on its website), a list of auditors whom the Operator uses for audits hereunder and to update this list. The auditor shall always be obliged to furnish, to the Producer, a valid authorization granted by the Operator for the performance of the audit.
4. The Producer shall be obliged to provide the auditor with timely and due collaboration necessary for performing the audit pursuant to the Agreement, in particular to provide him with true and complete information regarding the batteries and accumulators which he placed on the market and information regarding the performance of the Producer's duties in respect of batteries under the Waste Act and the Agreement, to enable him to inspect the Producer's accounting documents and other documents and data, and to make copies thereof, where required, and to grant him, under standard conditions, access to its business and storage premises. The Producer shall be obliged to provide this collaboration so that the audit can be performed and completed within 30 days of delivery, to the Producer, of the Operator's notice of the intention to perform an audit at the Producer. The Operator shall

be entitled to request that a person authorized by the Operator be present at the performance of the audit; however, the right to inspect confidential documents of the Producer shall be borne only by the auditor, unless the Producer agrees otherwise.

5. The auditor shall be obliged to proceed with professional care, to protect confidential information obtained from the Producer and to care for the justified interests of the Producer. In particular, (s)he shall be obliged to protect the business secrets of the Producer and not to disclose information constituting part of these business secrets to third persons. The auditor shall be especially prohibited from providing the obtained confidential information to other persons, including other producers and all employees and statutory bodies of the Operator, except for the summary report on the performance of the inspection and except for data required to exercise the Operator's rights against the Producer which may be submitted to the Operator. The Operator shall be obliged to impose a contractual obligation on the auditor to perform these obligations and to protect confidential information in accordance with the Agreement and shall be responsible for the performance of these obligations by the auditor.
6. After the performance of the audit, the auditor shall draw up a report, in which (s)he shall state as to whether the Producer has duly performed his/her/its obligations pursuant to paragraph 2 of this Article and what specific obligations the Producer may have breached and in what manner. The auditor shall be obliged to submit a preliminary wording of the report to the Producer and to the Operator and to allow them to express their opinion on its contents, unless the Producer or Operator fails to provide the necessary collaboration for such discussion without undue delay.
7. Neither the Producer nor the Operator shall be entitled to claim mutual compensation of costs related to the performance of the audit; this shall in no way prejudice other provisions of this Article.
8. The provisions of this Article shall be binding for both Parties also for a period of 9 months after termination of the Agreement.
9. Should the auditor determine that, as a consequence of failure to report certain facts or erroneous reporting of certain facts, the Producer has failed to pay the fee for certain batteries which (s)he/it placed on the market, the Producer shall be obliged to pay the outstanding amount of the fee.

V. Confidentiality

1. The Parties agree to maintain confidentiality of all confidential facts that they learned in connection with the Agreement and to protect the confidentiality of information of the other Party against unauthorized use by third persons. This shall in no way prejudice the entitlement of the Parties to disclose such information to their legal counsels, tax advisers, auditors or other persons bound by the confidentiality duty on the basis of a special legal regulation; these persons must be advised that the information is confidential. Information on the conclusion (arising) and termination (expiry) of the Agreement shall not be considered to be confidential.
2. The Producer agrees that the Operator may use information on the quantity of batteries and accumulators placed by the Producer on the market in the Czech Republic which the Producer provides in accordance with the Agreement in order to demonstrate the performance of the duties pursuant to the Waste Act to the competent administrative authorities and to perform the duty to register with and provide information to the Ministry of the Environment pursuant to Section 31o of the Waste Act. Furthermore, the Producer agrees that the Operator may use this information publicly in a consolidated statistical form that does not allow for reverse determination of the quantity of the batteries or accumulators placed on the market by the Producer him/her/itself.
3. The Operator shall be obliged to take technical and organizational internal measures aimed at the protection of confidential information. The Operator shall be obliged to instruct its employees and members of its bodies of the duty to maintain confidentiality hereunder and the Operator shall be obliged to duly check that these persons maintain confidentiality. Employees of the Operator may also not disclose confidential facts that they learned in connection with the Agreement to other employees of the Operator or members of the bodies of the Operator, unless this is necessary for fulfillment of their working tasks or from the viewpoint of their functional assignment.
4. The Producer is aware that the Operator will conclude agreements on joint performance also with other persons who place batteries and accumulators on the market.
5. The Operator shall be entitled to include the Producer in the database of Producers involved in the ECOBAT Collective Scheme, which shall be publicly accessible through the Internet on the Operator's website.

VI. Term and Expiry of the Agreement

1. The Agreement shall expire:
 - a) by agreement of the Parties concluded in writing;

- b) by termination;
 - c) by withdrawal;
 - d) by termination of one of the Parties without a legal successor.
2. Either Party shall be entitled to terminate this Agreement at any time by a written notice without giving a reason. The period of notice shall be three months and shall commence on the first day of the calendar month following the calendar quarter in which the written notice was delivered to the other Party.
 3. The Operator may withdraw from the Agreement on the following grounds:
 - a) if the Producer is in delay with the provision of a due Report pursuant to Art. IV (3) of the Agreement or with the performance of some other obligation pursuant to Art. IV of the Agreement for a period exceeding thirty (30) calendar days;
 - b) if the Producer is in delay with any payment to the Operator for a period exceeding 2 months;
 - c) if the Producer fails to provide the auditor with due and timely collaboration pursuant to Art. IV (1) (c) of the Agreement or Art. IV of the GTC; or
 - d) if a decision on the Producer's insolvency is issued or if an insolvency petition lodged against the Producer has been rejected for insufficient assets.
 4. The Producer may withdraw from the Agreement on the following grounds:
 - a) if a decision on the Operator's insolvency is issued or if an insolvency petition lodged against the Operator has been rejected for insufficient assets; or
 - b) if some other material fact has occurred as a consequence of which the Operator is no longer able to perform the Producer's duties assumed by the Operator on the basis of the Agreement, in particular if the authorization to operate a collective scheme has been withdrawn from the Operator by the Ministry of the Environment based on a final decision without any compensation and, without this authorization, the Operator would not be authorized to continue to perform this Agreement.
 5. This shall in no way prejudice the right of both Parties to withdraw on the grounds stipulated by the law.
 6. Withdrawal from the Agreement shall become effective, i.e. the Agreement shall cease to be valid and effective, upon delivery of a written notice of withdrawal to the other Party (with effect *ex nunc*). No right of the withdrawing Party to a contractual penalty, indemnification or other rights that have been incurred by that party on the basis of the Agreement up to the date of its termination shall be prejudiced by withdrawal from the Agreement.
 7. A notice of termination or withdrawal from the Agreement shall be delivered, as a rule, by mail in the form of a registered letter to the delivery address specified in the heading of the Agreement, unless the other Party has notified a change in the address. Should the recipient fail to accept the consignment or collect it within the deposition period, the last day of the deposition period shall be considered to be the date of delivery as agreed between the Parties. This shall in no way prejudice the possibility of delivering the notice of termination or withdrawal by means of fax, courier or by other appropriate means.
 8. In case of termination of the Agreement, the Parties shall be obliged to settle their obligations pursuant to the Agreement analogously according to the Agreement (except for Art. IV of the GTC); in particular, the Producer shall be obliged to submit, to the Operator, a Report also for the last quarter or part of the last quarter of the term of this Agreement in the manner and within the deadlines pursuant to this Agreement and to pay the fee, all subject to the penalties set out in the Agreement. The Operator's duties in relation to portable batteries or accumulators that have been duly reported by the Producer and for which the Operator received a fee from the Producer during the term of the Agreement in accordance with the Agreement shall not be prejudiced by expiry of the Agreement.
 9. If required by the legal regulations or a decision on authorization to operate a collective scheme pursuant to Section 31m (1) of the Waste Act that has been issued to the Operator, after termination of the Agreement, the Operator shall be obliged to notify the Ministry of the Environment of this fact.

VII.

Contractual Penalties

1. In case of delay in the provision of a due Report, the Operator shall have the right to charge, to the Producer, a contractual penalty in the amount of CZK 200.00 for each day of delay and the Producer shall be obliged to pay the charged contractual penalty.
2. Should the Producer provide the Operator with untrue or incomplete information, a contractual penalty shall be paid to the Operator in the amount of twice the difference between the fee calculated on the basis of the provided information and the fee calculated on the basis of full and true information. The entitlement to a contractual penalty shall not arise if the quantity of portable batteries and accumulators placed on the market,

- as reported by the Producer, is lower than the actual quantity by less than 5 %. This shall in no way prejudice the Producer's obligation to pay the outstanding part of the fee.
3. If the Producer fails to provide the auditor with due and timely collaboration pursuant to Art. IV (1) (c) of the Agreement or Art. IV of the GTC, the Operator shall have the right to charge, to the Producer, a contractual penalty in the amount of CZK 10,000.00 for each individual case, also repeatedly in case of continuing lack of collaboration by the Producer, and the Producer shall be obliged to pay the charged contractual penalty.
 4. In case of breach of the obligations pursuant to Art. V (1) of the GTC, the entitled Party shall be entitled to charge, to the breaching Party, a contractual penalty in the amount of CZK 100,000.00 for each individual case of breach, and the breaching Party shall be obliged to pay the charged contractual penalty.
 5. Should the Operator breach or fail to perform any of its obligations stipulated in Article III. of the Agreement, the Producer shall be entitled to charge a contractual penalty in an amount of CZK 2,500.00 for each individual case of breach.
 6. Should the Producer breach or fail to perform any of his/her/its obligations stipulated in Article IV. of the Agreement (except for cases set out in paragraphs 1 and 2), the Producer shall be entitled to charge a contractual penalty in an amount of CZK 2,500.00 for each individual case of breach.
 7. Neither the agreement on a contractual penalty nor payment of the contractual penalty shall in any way prejudice the entitlement to indemnification, entitlement to default interest or entitlement to surrendering of unjust enrichment. Similarly, neither the agreement on a contractual penalty nor payment of the contractual penalty shall in any way prejudice the entitlement of the relevant Party to unilaterally terminate the Agreement, if it has such an entitlement.
 8. In case of delay in the performance any pecuniary obligation pursuant to the Agreement, the Party that is in delay shall be obliged to pay, to the other Party, in addition to the outstanding amount, also default interest on the outstanding amount, in the amount stipulated by the law (Section 369 of the Commercial Code).

VIII.

Amendments to the GTC

1. The Operator shall be entitled to publish each amendment to the GTC on its website (currently, www.ecobat.cz), at least two months before the amendment is to take effect. This notice (publication) shall be deemed to have been made on the date of posting the notice on the relevant website and shall be considered to be a proposal for amendment to the GTC; it must include the date on which the amendment in the GTC is to take effect.
2. The Operator shall be obliged to send, to the Producer, information on amendments to the GTC by e-mail to the e-mail address of the Producer specified in the heading of the Agreement or to some other e-mail address specified by the Producer; however, even in that case, the publication of the amendment to the GTC on the Operator's website shall be considered to constitute notification of the Producer.
3. If the Operator publishes a notice of amendment to the GTC, the Producer shall be entitled to withdraw from the Agreement in writing; withdrawal from the Agreement represents the exclusive instrument of expressing disagreement with the proposal for amendment to the GTC agreed between the Parties. The right of withdrawal may be exercised only within one month of the publication of the notice and the notice of withdrawal must include express reference to this provision of the Agreement; if the notice of withdrawal is not made in writing, if it does not include express reference to this provision of the Agreement or if it is delivered to the Operator after expiry of the one-month deadline, it shall be null and void.
4. If the Producer validly withdraws from the Agreement within the specified deadline, the Agreement shall expire as of the date preceding the date on which the amendment to the GTC is to take effect. If the Producer does not withdraw from the Agreement after the publication of the notice of amendment to the GTC, the Producer shall be deemed to have accepted the proposal for amendment to the GTC and to have thus manifested the will to accept the proposal and the amendment in the GTC shall then be binding on both Parties. This shall also apply if the Producer makes some other legal act towards the Operator, constituting acceptance of the proposal for amendment to the GTC.
5. The said procedure shall apply analogously also to announcement of new GTC.

IX.

Final Provisions

1. The Agreement and all the associated legal relationships shall be governed by the laws of the Czech Republic, in particular by the Waste Act and by the Commercial Code. The Parties also agree that disputes arising out of

- the Agreement shall be resolved by the court that has local jurisdiction according to the place of the registered office of the Operator at the time of conclusion of the Agreement (Section 89a of the Code of Civil Procedure).
2. Signature of the Operator on notices, invoices, reminders, requests, etc. may be replaced by facsimile of the signature.
 3. If either of the parties fails to exercise a right that follows for it from this Agreement or in connection with this Agreement, this shall not be deemed to be waiver or relinquishment of this right by the given Party; such failure to exercise the right shall also not be deemed to constitute a custom or practice contrary to such a right.
 4. Should any of the provisions of the Agreement or the GTC become invalid, ineffective or unenforceable, this shall not affect the validity of the remaining provisions of the Agreement or the GTC, unless the nature of the Agreement or the GTC, the content thereof or the circumstances under which it was concluded imply that such a provision is inseparable from the remaining content of the Agreement or the GTC. If any of the provisions of the Agreement or the GTC becomes invalid, ineffective or unenforceable and the provision is severable from the remaining content of the Agreement or the GTC, the Parties agree to replace the provision by a new provision having the same or similar purpose without undue delay.
 5. If there is a change in the legislation (in particular in the Waste Act) or a change in the decision on authorization to operate a collective scheme pursuant to Section 31m (1) of the Waste Act that has been issued to the Operator or if such a decision on authorization to operate a collective scheme is replaced by a new decision and this change or the new decision require a change in the Agreement, the Parties agree to bring this Agreement into accordance with the altered legal regulations or the altered (new) decision on authorization to operate a collective scheme not later than within one month of the date of effect of such a change (new decision).
 6. By conclusion of the Agreement, the Parties mutually grant express consent to sending messages, information, acknowledgements of message delivery, reminders and other communications regarding the Agreement and the performance hereof by electronic means, in particular by e-mail, to its electronic contact addresses (usually e-mail addresses). This consent shall also apply to the sending of commercial communication regarding the securing of performances under the Waste Act and the provision of related services. The Parties shall be entitled to refuse a commercial communication sent in electronic form according to the applicable legal regulations.

These GTC were issued by the Operator and came into effect on November 30, 2009.

ECOBAT s.r.o.