

**Company name:**.....

Id. No.: .....

Tax Id. No.: .....

with its registered office at: .....

registered in the Commercial Register kept by .....

Section .....,

Inset .....

represented by .....

bank: ....., account No.: .....

e-mail address: .....

**(hereinafter the "Manufacturer")**

*and*

**Company name: ASEKOL s.r.o.**

Id. No.: 273 73 231

Tax Id. No.: CZ27373231

with its registered office at: Československého exilu 2062/8, Prague 4, 143 00

registered in the Commercial Register kept by the Municipal Court in Prague, Section C, Inset 109190

represented by Karel Krejsa, head of sales & international relations dept. (the Attorney)

bank: Komerční banka a.s., account No.: **35-2149920277/0100**

e-mail address: info@asekol.cz

**(hereinafter the "Operator")**

enter, pursuant to Section 269 (2) of Act No. 513/1991 Coll., the Commercial Code, as amended, and pursuant to Section 37h (1)(c) of Act No. 185/2001 Coll., on waste and on amendment to some other laws, as amended, on the basis of full agreement on the below mentioned facts, into this

## **Contract on Joint Performance**

the registration number of the Contract is: ..... (to be specified by ASEKOL)

the registration number of the Manufacturer is: ..... (to be specified by ASEKOL)

### **1. Definitions**

The following terms are defined for the purposes of this Contract:

**Act** shall mean Act No. 185/2001 Coll., on waste and on amendment to some other laws, as amended.

**Manufacturer** shall mean a legal entity or natural person authorized to operate a business, complying with the conditions stipulated in Section 37g (e) of the Act.

**Electrical and electronic equipment (EEE)** shall mean any electrical or electronic equipment corresponding to the definition pursuant to Section 37g (a) of the Act. For the purposes of this Contract, only electrical or electronic equipment falling within groups 3, 4, 6, 7, 8, 9 and 10 according to Annex No. 7 to the Act shall be considered to be electrical or electronic equipment.

**Waste electrical and electronic equipment (WEEE)** shall mean electrical and electronic equipment that has become a waste pursuant to Section 3 (1) of the Act, including its components, construction parts and consumable parts forming a component part of the equipment at that moment.

**Historical electrical and electronic equipment** shall mean household electrical and electronic equipment that had been placed on the market in the Czech Republic by August 13, 2005 and that is intended to be taken back.

**Historical waste electrical and electronic equipment** shall mean non-household electrical and electronic equipment that had been placed on the market in the Czech Republic by August 13, 2005 and has become a waste pursuant to Section 3 (1) of the Act.

**Collective scheme** shall mean a network of WEEE facilities for the collection of equipment, take-back of EEE and facilities for processing, recovery and disposal of WEEE and EEE with a view of ensuring collection, processing and recovery of taken-back EEE and separately collected WEEE which is controlled and organizationally, technically and contractually secured by the ASEKOL s.r.o. company.

**Operator** shall mean the ASEKOL s.r.o. company which ensured, through the operation of the collective scheme, the joint performance of the duties of the manufacturers in respect of taking back, separate collection, processing, recovery and disposal of EEE and WEEE in accordance with Section 37h (1)(c) and pursuant to Section 37l (1), Section 37m (1) and Section 37n (3) of the Act. On the basis of Decision of the Ministry Ref. No. 5193/ENV/720/05 of December 22, 2005, and 760/ENV/09-128/720/09 of February 13, 2009 the Operator has been registered in the List kept by the Ministry as the collective scheme operator providing for joint performance of duties in respect of taking back, separate collection, processing, reuse and disposal of EEE and WEEE from EEE groups 3, 4, 6, 7, 8, 9 and 10 according to Annex No. 7 of the Waste Act (Reg. No. K006/05-ECZ); in respect of groups 3, 4 and 7, the Operator has been registered as the scheme for financing disposal of historical electrical and electronic equipment (Reg. No. KH005/05-ECZ).

**Fiduciary** shall mean a person authorized by the Operator to verify the correctness and completeness of data on quantity and weight of EEE put on the market by the Manufacturer and fulfillment of other duties of the Manufacturer stipulated by this Contract. The Fiduciary is contractually bound to maintain confidentiality and treat the data provided by the Manufacturer as confidential. The Fiduciary shall be determined by the Operator.

**Contribution** shall mean the financial amount contributed by the Manufacturer to the collective scheme in order to secure management of one item or one kilogram of household electrical and electronic equipment and to secure management of one item or one kilogram of waste electrical and electronic equipment; the contribution is intended for financing of taking back, separate collection, processing, recovery and disposal of electrical and electronic equipment and waste electrical and electronic equipment.

**Contribution for historical electrical and electronic equipment** shall mean the financial amount contributed by the Manufacturer to the collective scheme in order to secure taking back, separate collection, processing, recovery and disposal of one item or one kilogram of electrical and electronic equipment placed on the market before August 13, 2005.

**Contract** (or this Contract) shall mean this Contract on Joint Performance, unless expressly specified otherwise.

**GTC** shall mean the general terms and conditions of the collective scheme issued by the Operator. Valid GTC are available at the website [www.asekol.cz](http://www.asekol.cz) and also form Annex No. 5 hereto.

**Ministry** shall mean the Ministry of Environment or, as appropriate, the administrative authority that would assume, on the basis of a special regulation, the competence of the Ministry in matters regulated by the Act.

**List** shall mean the List of Manufacturers of Electrical and Electronic Equipment kept by the Ministry pursuant to Section 37i of the Act.

Other terms specified in this Contract shall be construed in accordance with the Act and its implementing regulations.

## 2. Subject of the Contract

- 2.1. By virtue of this Contract, the Manufacturer confers on the Operator its duties under Part Four, Title II, Chapter 8 of the Act stipulated for separate collection, taking back, processing, recovery and disposal of EEE and WEEE, except for those duties that the Manufacturer is obliged to fulfil independently. By virtue of this Contract, the Operator assumes these Manufacturer's statutory duties in that, within the collective scheme operated by it, the Operator shall ensure, for the Manufacturer, the fulfillment of these duties in accordance with the Act and its implementing legal regulations, from the organizational and technical viewpoint, and under the terms and conditions specified hereafter, usually through the third persons – the Operator's contracting partners. In consideration, the Manufacturer agrees to pay the fee to the Operator.
- 2.2. The delegation of the Manufacturer's duties under paragraph 2.1. applies only to groups of EEE specified in Annex No. 1 hereto.
- 2.3. The Manufacturer and the Operator further agree that the Operator shall ensure the fulfillment of the Manufacturer's duties for all electrical and electronic equipment under paragraph 2.2., regardless of whether or not household electrical and electronic equipment is involved and regardless of the date when the electrical and electronic equipment was put on the market.

## 3. Obligations of the Operator

- 3.1. The Operator shall be obliged to ensure that the operation of the collective scheme fulfills all duties of the Manufacturer of electrical and electronic equipment under Part Four, Title II, Chapter 8 of the Act, except for duties that the Manufacturer is obliged to fulfill independently (e.g. Section 37j, Section 37k (2) of the Act).
- 3.2. The Operator shall ensure, for the Manufacturer:
  - a) taking back of electrical and electronic equipment and separate collection of waste electrical and electronic equipment through the network of take-back/separate collection places in the entire territory of the Czech Republic,
  - b) transport of electrical and electronic equipment and of waste electrical and electronic equipment from the take-back places and separate collection places to the place of processing,
  - c) processing and recovery of electrical and electronic equipment and of waste electrical and electronic equipment by an entity authorized thereto under the Act,
  - d) compliance with the limits for recovery of waste electrical and electronic equipment under Section 37m (3) of the Act.
  - e) maintaining conclusive records of taken-back electrical and electronic equipment and of separately collected waste electrical and electronic equipment,
  - f) co-operation in providing information to the consumers and in providing information to the distributors and final dealers,
  - g) preparation of the annual report and sending thereof to the Ministry pursuant to Section 37h (2) of the Act.
- 3.3. The Operator shall be obliged to lodge, on behalf of the Manufacturer, an application for registration in the List not later than within 30 days of execution of this Contract; provided that the Operator's complies with this contractual deadline, the Operator shall bear no liability whatsoever for any potential sanctions that may result from the Manufacturer's failure to meet the deadline for lodging the application for registration. If the Manufacturer has already been registered in the List for an individual scheme, solidarity scheme or any other collective scheme other than the ASEKOL collective scheme, the Operator shall be obliged to update the data in the List within 14 days of execution of this Contract.
- 3.4. Within 10 days after execution of this Contract, the Operator shall be obliged to provide the Manufacturer with a sample letter intended for informing the Manufacturer's customers pursuant

to Section 37k (3) of the Act, by mail or in electronic form, at the Manufacturer's address specified in the heading of this Contract. Analogously, the Operator shall provide the Manufacturer with possible updated versions of this letter. The Manufacturer shall be obliged to send this letter or updated versions thereof without undue delay to its distributors or dealers and also to send it without undue delay to its new distributors or dealers.

- 3.5. The Operator shall be obliged to provide all final dealers who demonstrably sell the Manufacturer's electrical and electronic equipment with sufficient collaboration in the fulfilment of their duties under Section 37k (4) of the Act (in particular, to ensure the removal of electrical and electronic equipment taken back by the final dealer and to provide the dealer with the necessary information regarding taking back), provided that these dealers ask for such support and provide the Operator with the necessary co-operation. On the basis of mutual agreement between the final dealer and the Operator, the take-back place may be established directly on the final dealer's premises provided that suitable conditions exist for this procedure.
- 3.6. The Operator shall be obliged to provide for preparation and permanent publication of information required by the Act for the distributors, final dealers, consumers and WEEE processors on its website at [www.asekol.cz](http://www.asekol.cz).
- 3.7. The Operator shall be obliged to issue to the Manufacturer a certificate regarding the fact that the Manufacturer has joined the collective scheme and, if appropriate, the Operator shall be entitled to present the Manufacturer in its other presentation and promotional materials. The Operator agrees not to present the business name (designation) of the Manufacturer in a manner or under circumstances that would prejudice the goodwill or legitimate interests of the Manufacturer of which the Operator is aware.
- 3.8. The Operator agrees to provide the Manufacturer, to a reasonable extent, with free professional consultancy in all matters related to environmentally sound management of electrical and electronic equipment (legislative changes, marking of electrical and electronic equipment, etc.).
- 3.9. The Operator shall be obliged to undergo annual audits of its economic management carried out by an authorized independent financial auditor and to publish its economic results on a yearly basis in the form of annual report.
- 3.10. The Operator shall be obliged to publish the annual report pursuant to Section 37h (2) of the Act every year.
- 3.11. The Operator shall be obliged to render services to all manufacturers using the collective scheme under non-discriminating conditions.
- 3.12. The Operator shall be obliged to maintain confidentiality and protect information that it obtains in connection with this Contract unless this is not permitted by a law or some other legal regulation. The Operator shall guarantee that the Fiduciary maintains confidentiality and protects information that the latter obtains in connection with this Contract, unless this is not permitted by a law or some other legal regulation.
- 3.13. The Operator shall be obliged to maintain and operate its website and ensure its proper and reliable functioning at all times during the term hereof (this website's current address is [www.asekol.cz](http://www.asekol.cz), [www.elektrosrot.cz](http://www.elektrosrot.cz)).

#### **4. Obligations of the Manufacturer**

- 4.1. The Manufacturer shall be obliged to maintain, continuously and in a due and demonstrable manner, correct and complete records of all electrical and electronic equipment placed on the market and imported, exported or manufactured by the Manufacturer in accordance with this Contract, the Act and its implementing regulations. The records must be demonstrable in particular in relation to the Manufacturer's accounting.
- 4.2. The Manufacturer agrees to provide the Operator, on a quarterly basis and in the form of reports, with correct and complete information on the quantity of the individual types of electrical and electronic equipment which the Manufacturer:
  - imported to the Czech Republic or manufactured in the territory of the Czech Republic,
  - placed on the market in the Czech Republic,
  - exported outside of the territory of the Czech Republic.

The Manufacturer shall be responsible for the correctness, completeness and truthfulness of the provided information. The extent, form and structure of the reports and the method of providing information are specified in the GTC. The GTC effective as of the date of execution of this Agreement require that the producer deliver to the operator a duly filled-in report, exclusively in electronic form, through the operator's information system available on the operator's website; this shall in no way prevent a change in this provision through amendment to the GTC. The

provided information is confidential and the provisions of paragraph 3.12. hereof shall apply thereto. If the Manufacturer sells electrical and electronic equipment within its business activity pursuant to Section 37j (4) of the Act, this electrical and electronic equipment shall be recorded as electrical and electronic equipment placed on the market by the Manufacturer.

- 4.3. Where the Contract also applies to electrical and electronic equipment placed on the market, manufactured, imported or exported by the Manufacturer prior to the date of effect of this Contract, the Manufacturer shall be obliged to submit to the Operator an extraordinary report for the previous period and provide the Operator with information retroactively as of the date specified in paragraph 9.1.
- 4.4. Should the Manufacturer subsequently ascertain that the information provided under paragraph 4.2. is not in line with the facts or is incorrect or incomplete, the Manufacturer may provide for a remedy by sending a correction report. If it follows from the correction report that the Operator is entitled to a higher amount of fee, the Manufacturer shall be obliged to pay the Manufacturer also a contractual fine equal to the amount of interest under paragraph 7.12. for the period commencing on the date on which the regular report was to be submitted at the latest with respect to the quarter for which the correction report is submitted to the date of submission of the correction report to the Operator and payment of the outstanding fee. The Manufacturer shall be entitled to raise an objection that it placed on the market a lower quantity of electrical and electronic equipment or different types of electrical and electronic equipment than specified in the report, or that particular equipment is not electrical and electronic equipment, only by virtue of a correction report within the deadlines specified below. No later objection will be taken into consideration due to the fact that, on the basis of the reports, the Operator continuously provides performance under the Contract and provides for due disposal of electrical and electronic equipment and waste electrical and electronic equipment.
- 4.5. The Manufacturer shall be obliged to submit a regular report containing information according to paragraph 4.2. to the Operator not later than within 30 calendar days of the end of the calendar quarter to which the submitted data pertain; the Manufacturer shall be obliged to submit a correction report within 5 calendar days of the date when the facts specified in paragraph 4.4. of this Contract were ascertained. With regard to the continuous fulfilment of the manufacturer's duties by the Operator, the correction report, on the basis of which the Manufacturer should pay a lower fee, may be submitted no later than within 6 months of the end of the calendar quarter for which the submitted data pertain. An extraordinary report for a period preceding the date of effect of this Contract must be submitted by the Manufacturer to the Operator within 30 days of the date of effect of the Contract, unless expressly provided otherwise.
- 4.6. The Manufacturer agrees to enable the Operator, at his request, to perform an inspection of correctness and completeness of the information provided under paragraphs 4.2. and 4.3. with respect to the quantity and weight of electrical and electronic equipment, particularly in that he shall tolerate an inspection performed by the Fiduciary (Article 8). To this end, the Manufacturer shall provide the Fiduciary with the necessary co-operation.
- 4.7. For the purposes of lodging an application for registration of the Manufacturer in the List, the Manufacturer agrees to grant the Operator a written power of attorney and to provide it with other documents (including the required extracts from the Commercial Register or the Trade Register) and duly completed forms, the list and samples of which are specified in the GTC, all the above within seven days of execution of this Contract. The Manufacturer shall be obliged to notify the Operator promptly of any change in the registered data in order to ensure that the Operator has sufficient time to notify the change according to the Act and its implementing regulations (for details, see Section 37i (4) of the Act). The Manufacturer shall be responsible for correctness, completeness and truthfulness of the information provided by the Manufacturer. The Manufacturer acknowledges that if the Manufacturer incurs duties according to the Act also in relation to electrical and electronic equipment other than that specified in Annex No. 1 to this Contract, the Manufacturer shall be obliged to register in the List as a manufacturer also for the other relevant groups.
- 4.8. The Manufacturer agrees to provide the Operator with the necessary collaboration for the performances under this Contract in order to ensure performance of this Contract and fulfilment of the duties according to the Act including the possible provision of additional information necessary for due provision for separate collection, taking back, processing, recovery and disposal of electrical and electronic equipment and waste electrical and electronic equipment.
- 4.9. The Manufacturer agrees to pay, in a due and timely manner, the fee for the services provided to the Manufacturer by the Operator according to Article 7 of this Contract.

- 4.10. The Manufacturer agrees to provide the Operator with any and all information necessary for the processing of the waste electrical and electronic equipment, in particular data on the material composition of electrical and electronic equipment and on the content of dangerous substances contained therein, on the method of dismantling of electrical and electronic equipment and on the possibilities of reuse of electrical and electronic equipment and material recovery of waste electrical and electronic equipment, or on the method of disposal thereof, as appropriate. The extent, structure, deadlines and manner of the provision of information according to this paragraph are stipulated in the GTC.
- 4.11. In all documents related to the sale of electrical and electronic equipment, the Manufacturer agrees to separately specify the contribution for historical electrical and electronic equipment in the amount set by the valid tariff of contributions for historical electrical and electronic equipment issued by the Operator of the collective scheme and in a manner determined by the Operator of the collective scheme (if the tariff has been stipulated by the Operator). This shall apply only for the period for which separate specification of costs is permitted by the Act (Section 37n (3)). The final dealer of electrical and electronic equipment and the Manufacturer, in cases where the Manufacturer acts in the capacity of final dealer of electrical and electronic equipment, shall be entitled to separately specify the contribution for historical electrical and electronic equipment in a simplified form under the conditions stipulated by the Methodical Guideline for dealers of electrical and electronic equipment regarding the specification of the contribution for historical electrical and electronic equipment in the sale of electrical and electronic equipment which is attached to the GTC as its Annex No. 9; the Manufacturer shall be obliged to deliver the guideline to all its distributors or dealers together with the letter under Article 3 (3.4.) of the Contract. However, the Manufacturer, acting in the capacity of final dealer, shall be obliged to accept invoices containing separately specified contribution for historical electrical and electronic equipment from its distributors.
- 4.12. The Manufacturer agrees to fulfill, separately and in a due manner, the duties relating to electrical and electronic equipment not included in this Contract on Joint Performance (e.g. duty under Section 37j, Section 37k(2) of the Act).
- 4.13. The Manufacturer agrees to actively engage in the information system for the consumers operated within the collective scheme, in particular by informing the consumers, in the accompanying documents to electrical and electronic equipment supplied on the market in the Czech Republic or in some other appropriate and sufficient manner, of its involvement in the collective scheme, on take-back places for EEE and separate collection places for WEEE, on the requirement not to dispose of electrical and electronic equipment together with mixed municipal waste, as well as on the consumer's role in the reuse of the electrical and electronic equipment and on material and other recovery of waste electrical and electronic equipment and on the possible adverse effects of dangerous substances contained in electrical and electronic equipment on the environment and human health, in particular by reference to the Operator's website.
- 4.14. The Manufacturer shall be obliged to notify the Operator in writing of any change in its data specified in the heading hereof, without undue delay, but not later than within 14 days of the change in the data; the provision of paragraph 4.7. shall not be prejudiced hereby. The Manufacturer shall be obliged to notify the Operator without undue delay in writing of the commencement of the inspection of the fulfilment of its duties as the manufacturer of electrical and electronic equipment according to the Act by the competent public authority.

## **5. Rights of the Parties**

5.1. The Operator shall have the right to:

- a) use the Manufacturer's logos according to Annex No. 3 during the term of this Contract, but only for the purpose of informing third persons on the engagement of the Manufacturer in the collective scheme.
- b) entrust third persons with certain activities under this Contract and use third persons in management of electrical and electronic equipment and waste electrical and electronic equipment,
- c) for the purposes of keeping records and presentation of the collective scheme, publish the information on the quantity of electrical and electronic equipment provided to it by the Manufacturer under paragraph 4.2. in a consolidated form which makes it impossible to retroactively identify information related to a particular manufacturer.

5.2. The Manufacturer shall have the right to:

- a) request that the Operator determine the amount of the contribution in respect of electrical and electronic equipment not specified in the valid tariff of contributions,
- b) in case of ambiguities, request that the Operator classify electrical and electronic equipment in the respective group or sub-group of electrical and electronic equipment,
- c) nominate one representative to the working group established by the Operator for evaluation of the amount of contributions under paragraph 6.5. of the Contract,
- d) make proposals regarding modifications of operation of the collective scheme leading to higher efficiency of the collective scheme operation,
- e) use, exclusively under the conditions and within the scope according to the GTC, the Operator's logo pursuant to Annex No. 4; however, this use is not mandatory.

5.3. The Parties hereby mutually grant express consent to sending messages, information, acknowledgements of message delivery, reminders and other communications regarding this Contract 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 messages regarding the securing of performances under the Act and the provision of related services.

5.4. The Manufacturer hereby grants general consent that the Operator refund the paid contribution or part thereof to third persons exporting electrical and electronic equipment that was originally placed on the market by the Manufacturer. The Manufacturer shall be entitled to unilaterally withdraw the granted consent; however, the withdrawal may not be retroactive; the Manufacturer shall also be entitled to withdraw the consent only in a particular case. If the consent to refunding has been granted, the Manufacturer shall bear no responsibility for correctness and justification of refunding of the contributions to third persons; the Manufacturer's rights hereunder shall not be prejudiced by any unjustified refund.

## 6. Method of Determination of Contributions

- 6.1. The contribution for historical electrical and electronic equipment is intended to secure taking back, processing, recovery and disposal of electrical and electronic equipment placed on the market by August 13, 2005 (see Article I – Definitions).
- 6.2. The contribution for new electrical and electronic equipment is intended for payment of any and all costs and expenses incurred by the Operator in association with the provision of services and rights hereunder relating to electrical and electronic equipment placed on the market after August 13, 2005.
- 6.3. The contribution for professional electrical and electronic equipment is intended to secure financing of the separate collection, processing, recovery and disposal of waste electrical and electronic equipment.
- 6.4. The tariff of contribution shall be issued by the Operator. In principle, the tariff shall include the unit rates of contribution, separately for each group and sub-group of the relevant electrical and electronic equipment. In addition, the tariff of contributions shall include the system fee expressed by a lump sum for the calendar year; the system fee serves for payment of part of the fixed expenses of the ASEKOL scheme related to the service for the individual customers regardless of the quantity of electrical and electronic equipment placed by them on the market, in accordance with the principle of equal treatment.
- 6.5. At least once a year, the Operator shall be obliged to evaluate and assess the amount of all contributions for each group and sub-group of the relevant electrical and electronic equipment (i.e. the contribution for historical electrical and electronic equipment, the contribution for new electrical and electronic equipment, the contribution for professional electrical and electronic equipment), in particular with regard to the actual and anticipated expenses resulting from the operation of the collective scheme and with regard to the quantity of electrical and electronic equipment placed on the market. To this end, the Operator shall establish *ad hoc* working consultancy groups comprising the representatives of the Manufacturers and of the scheme Operator who shall carry out evaluation and assessment of the contributions.

- 6.6. Through its website, the Operator shall be entitled to publish a change in the rates of contribution(s), at least two months prior to the date of effect of the change; this notification (publication) shall be deemed to have been made on the date of placement of this notice on the said website. This notice shall be considered to constitute a proposal for a change in the rates of contributions and must include the specification of the quarter from which the change is to take place.
- 6.7. If the Operator publishes a notice according to paragraph 6.6., the Manufacturer shall be entitled to withdraw from this Contract in writing; withdrawal from the Contract represents an exclusive instrument agreed between the Parties for expressing disagreement with the proposal for a change in the rates of contributions. The Manufacturer may exercise its right of withdrawal only within one month of the publication of the notice and the notice of withdrawal must contain express reference to this provision of the Contract. If the notice of withdrawal is not made in writing, if it does not contain express reference to this provision of the Contract or if it is delivered to the Operator after the expiry of the one-month deadline, it shall be null and void.
- 6.8. If the Manufacturer withdraws from the Contract using the procedure according to the previous paragraph, the Contract shall expire as of the date immediately preceding the calendar quarter from which the new rates of contributions were to take effect.
- 6.9. Unless the Manufacturer withdraws from the Contract after the publication of the notice by the Operator pursuant to paragraph 6.6. based on the procedure according to paragraph 6.7., the Manufacturer shall be deemed to have accepted the Operator's proposal for a change in the rates of contributions and shall be obliged to pay the fee to the Operator according to the changed rates of contributions which shall then be binding on both Parties. This shall also apply if the Manufacturer pays the fee calculated according to the changed rates of contributions or if the Manufacturer performs some other legal act towards the Operator constituting acceptance of the proposal for a change in the rates of contributions.
- 6.10. The procedure specified under items 6.6. to 6.9. above shall apply also to changes in the system fee *mutatis mutandis*.

## **7. Amount of Fee and Terms of Payment**

- 7.1. The fee shall be paid for the services provided by the Operator, i.e. providing for the subject of performance hereunder. The fee shall consist of the contribution for new electrical and electronic equipment, contribution for historical electrical and electronic equipment, contribution for professional electrical and electronic equipment and system fee. The fee shall not include value added tax, excise duties or any other similar taxes or fees relating to the provision of the service consisting in providing for the fulfilment hereunder; should the Operator become liable to pay such taxes or fees in the provision of the services in question (as of the date of conclusion of the Contract, this includes the liability to pay the value added tax – hereinafter the "VAT"), the Manufacturer hereby agrees to disburse such taxes or fees to the Operator in addition to the fee hereunder.
- 7.2. The amount of the fee shall be calculated on the basis of the total quantity of electrical and electronic equipment placed by the Manufacturer on the market in the Czech Republic (including that which the Manufacturer imported or manufactured) in the respective calendar quarter, in accordance with the valid tariff of contributions, in that the respective tariff item shall be multiplied by the corresponding quantity of electrical and electronic equipment placed on the market in the Czech Republic in items or in kilograms. VAT at the statutory rate shall be added to thus-calculated amount.
- 7.3. The system fee shall be determined on the basis of the tariff of contributions as an annual lump sum. The amount of the system fee for the relevant quarter shall be determined as one quarter of the annual amount of the system fee. VAT at the statutory rate shall be added to this amount. If the term of the Contract covers only part of a certain quarter, the system fee shall be calculated as if the Contract covered the whole quarter in question.
- 7.4. The fee shall not be paid for exported electrical and electronic equipment. However, the Manufacturer shall be obliged to keep records of and specify in the reports also exported electrical and electronic equipment. Exported electrical and electronic equipment shall mean electrical and electronic equipment which the Manufacturer demonstrably exported abroad. Export shall mean release into the export regime under the customs regulations or delivery from the Czech Republic over the border to another Member State of the European Community. Within the inspection hereunder (Article 8), the Manufacturer shall be obliged to demonstrate to

the Operator that it has fulfilled the conditions for the exemption from payment of the fee set by this paragraph.

- 7.5. The services for which the fee is paid are provided on a quarterly basis based on the reports under Article 4.2 hereof. From the viewpoint of the VAT Act, services shall be deemed to be rendered on the date when the regular, correction or extraordinary report complying with any and all requirements set in the GTC is delivered to the Operator. Within fifteen (15) calendar days after the date of the taxable supply, the Operator shall be obliged to issue a tax document through which the Operator shall account for the fee for the relevant period and within which it shall settle any and all advance payments paid as of the date of issue of the tax document.
- 7.6. Unless stipulated otherwise, the fee shall be payable in quarterly advance payments on the basis of interim invoices issued by the Operator within fifteen days of the receipt of the regular report for the quarter preceding the quarter for which the advance payment is paid. The period of maturity of an interim invoice shall equal thirty (30) calendar days from the date of issue of the invoice; if the Manufacturer delivers the report to the Operator with delay, the period of maturity of the interim invoice shall be reduced to ten (10) calendar days. The Operator shall be entitled not to issue an interim invoice, in particular in cases where, according to the regular report, the Manufacturer is obliged to pay a low amount of the fee; in that case, the fee shall be payable on the basis of the Operator's invoice issued within fifteen (15) calendar days of the receipt of the regular report for the calendar quarter. The period of maturity of the invoice shall equal thirty (30) calendar days of the issue of the invoice.
- 7.7. The amount of the first advance payment on the fee shall be determined on the basis of the quantity of electrical and electronic equipment placed on the market in the quarter preceding the conclusion of this Contract and the valid tariff of contributions in that the respective tariff item shall be multiplied by the corresponding quantity of electrical and electronic equipment placed on the market in the Czech Republic in items or in kilograms. VAT at the statutory rate shall be added to thus-calculated amount. The amount of the first advance payment shall be subsequently adjusted on the basis of the calculation according to paragraph 7.9. The interim invoice (tax document) related to that payment shall be issued by the Operator within fifteen (15) calendar days of execution of this Contract. The period of maturity of the interim invoice shall equal fifteen (15) calendar days.
- 7.8. If the advance payment is received before the date of taxable supply, within fifteen (15) days of acceptance of the advance payment, the Operator shall be obliged to issue a tax document and send it to the Manufacturer. The Operator agrees to account for the paid advance payment for the respective calendar quarter to the Manufacturer within fifteen (15) calendar days of the receipt of the regular report for the relevant quarter by means of an invoice complying with the requirements for a tax document in the sense of the VAT Act. Any excess advance payment shall be reflected in the assessment of the advance payment for the subsequent period. The Operator shall be entitled to use the excess advance payment for the settlement of due receivables from the Manufacturer. In case of termination of the Contract, the Operator shall reimburse the excess advance payment into the Manufacturer's account specified in this Contract or into an account determined to this end by the Manufacturer within thirty (30) calendar days of the termination of the Contract, but not earlier than after fulfilment of all obligations of the Manufacturer towards the Operator, in particular the delivery of regular reports and payment of any outstanding fees.
- 7.9. The amount of the advance payments on the fee shall be determined for the given calendar quarter as follows:
- the advance payment for the first calendar quarter of the year = half the amount of the fee for the fourth quarter of the previous year,
  - the advance payment for the second calendar quarter of the year = the amount of the fee for the first quarter of the year,
  - the advance payment for the third calendar quarter of the year = the amount of the fee for the second quarter of the year,
  - the advance payment for the fourth calendar quarter of the year = twice the amount of the fee for the third quarter of the year,
- 7.10. The provision of the advance payment on the fee calculated according to the regular report for the previous calendar quarter shall be considered to be confirmation of the data contained in the report.

- 7.11. The fee shall be paid by wire transfer into the Operator's account, unless otherwise agreed in respect of a particular payment between the Manufacturer and the Operator. 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.
- 7.12. In case of delay in the fulfilment of any monetary obligation hereunder, default interest shall be payable in an amount of 0.05 % of the outstanding amount for each day of the delay. For the period of the Manufacturer's delay in payment of the fee, the Operator shall not be in delay with its performance.
- 7.13. 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. Inspection, Confidentiality and Penalties**

- 8.1. On the basis of the Operator's prior written notice, the Manufacturer agrees to enable the Fiduciary without delay, but not later than within 30 days of delivery of the notice, to verify the correctness and completeness of the provided information and fulfilment of the obligations stipulated by this Contract by disclosing to the Fiduciary the business and accounting documentation related to determination of the quantity of electrical and electronic equipment placed on the market in the Czech Republic by the Manufacturer, including equipment imported, exported and manufactured by the Manufacturer. The Operator shall not be entitled to request this inspection more often than once every six months.
- 8.2. The Manufacturer shall be obliged to provide the Fiduciary with timely and due collaboration necessary for performing the inspection hereunder, in particular to provide him with correct and complete information regarding electrical and electronic equipment and regarding the fulfilment of the Manufacturer's duties under the Act and this Contract, to enable him to inspect its accounting documents and other documents and data which are related to the management of electrical and electronic equipment and to grant him, under standard conditions, access to its business and storage premises. Together with the Fiduciary, an Operator's employee shall also be entitled to participate in the inspection.
- 8.3. Should it be ascertained on the basis of a duly performed inspection or on the basis of data correction notified by the Manufacturer that the Manufacturer placed a greater or lower quantity of electrical and electronic equipment on the market in the Czech Republic than it reported, the Operator shall draw up an additional invoice or additional credit note based on the tariff of contributions valid at the time when the electrical and electronic equipment should have been reported by the Manufacturer.
- 8.4. Should the Fiduciary ascertain, with respect to any fee period, that the quantity of electrical and electronic equipment placed on the market in the Czech Republic as reported by the Manufacturer is lower than the actual quantity by more than 5 %, the Manufacturer shall be obliged to pay the Operator a contractual fine in an amount of 100 % of the resulting outstanding payment. This provision shall apply also if the Manufacturer sends a correction report after the commencement of inspection by the Fiduciary.
- 8.5. Under a contract of mandate, the Fiduciary is bound to the Operator to maintain absolute confidentiality of information obtained by the Fiduciary in the verification of correctness and completeness of the provided information. The Fiduciary shall be obliged to act with professional care and protect the legitimate interests of the Manufacturer.
- 8.6. The Fiduciary shall be especially prohibited from disclosing the ascertained detailed information to other persons including other manufacturers. The Fiduciary may not disclose this information to employees and statutory bodies of the Operator or to its members, except for the summary report on execution of the inspection and unless a situation occurs as described in paragraph 8.4. hereof.
- 8.7. The Operator shall be liable to the Manufacturer for maintaining confidentiality of information provided to or obtained by the Operator in its activity hereunder directly or through the Fiduciary. The right of the Parties to disclose confidential information to its attorneys-at-law, tax advisers, auditors or other persons bound by the confidentiality duty on the basis of a special legal regulation shall not be prejudiced hereby; these persons must be advised that the data are confidential.
- 8.8. The Operator shall be obliged to take technical and organizational internal measures aimed at the protection of confidential data. 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. The Operator's employees or members of its bodies may not disclose confidential data that they learnt in connection with this

Contract to other employees of the Operator or members of the Operator's bodies unless it is necessary for the fulfillment of their tasks or from the viewpoint of their positions, and may not misuse this information in any way.

- 8.9. Confidential treatment of information shall not exclude disclosure of summary anonymous information on the quantity of electrical and electronic equipment placed on the market.
- 8.10. Information on execution, term, modification or termination of this Contract or on the scope of groups of electrical and electronic equipment to which this Contract relates shall not be considered to be confidential.
- 8.11. The Operator shall be entitled to request that the Manufacturer enable it to verify correctness and completeness of the provided information and fulfillment of the obligations stipulated by this Contract through the procedure according to this Article also within the period of 3 months after termination of the Contract; in this case, the provisions hereof concerning the performance of the inspection shall apply accordingly.
- 8.12. Should the Operator breach or fail to fulfil any of its obligations stipulated in Article 3 of the Contract (except for paragraphs 3.8. and 3.12. of the Contract), the Manufacturer shall be entitled to charge a contractual fine in an amount of CZK 10,000.00 for each individual case of breach of obligations.
- 8.13. Should the Manufacturer breach or fail to fulfil any of its obligations stipulated in Article 4 of the Contract, the Operator shall be entitled to charge a contractual fine in an amount of CZK 10,000.00 for each individual case of breach of duties.
- 8.14. In addition to the penalties stipulated in item 8.12. and 8.13., the following special penalties are stipulated:
- a) Should the Operator breach the confidentiality obligation under paragraph 3.12., it shall be obliged to pay the Manufacturer a contractual fine in an amount of CZK 50,000.00 for each individual case of breach of the obligation.
  - b) Should the Manufacturer fail to enable the Fiduciary to perform an inspection under paragraph 8.1. or 8.2. or should it fail to provide the necessary collaboration for the performance of the inspection, the Operator shall be entitled to charge to the Manufacturer a contractual fine in an amount of CZK 50,000.00 for each individual frustrated inspection or for each individual case of failure to provide collaboration.
  - c) Should the Manufacturer fail to submit the report duly and in a timely manner in accordance with paragraph 4.5. of the Contract, it shall be obliged to pay to the Operator a contractual fine in an amount of CZK 5,000.00 for each day of delay in the submission of the report.
  - d) Should the Manufacturer fail to fulfil its obligation according to paragraph 4.11. of the Contract, the Operator shall be entitled to charge to the Manufacturer a contractual fine in an amount of CZK 30,000.00 for each breach of the obligation. Should the Manufacturer fail to remedy the given matter within a deadline set by the Operator, which must not be less than 30 days, the Operator shall be entitled to charge this contractual fine to the Manufacturer again, for repeated failure to fulfil the obligation; the Operator shall be thus entitled to set the deadline and to charge the contractual fine also repeatedly until the obligation is fulfilled.
- 8.15. No claim for damages or reimbursement of unjustified enrichment or claim for the payment of default interest shall be prejudiced by a claim for a contractual fine.

## **9. Term of the Contract**

- 9.1. This Contract becomes valid and effective on the date of execution thereof by both Parties; however, it also applies to the Manufacturer's duties in relation to historical electrical and electronic equipment from households incurred by the Manufacturer for the period from January 1, 2006; from the date of effect of this Contract (not earlier), the Operator shall be obliged, in particular, to ensure the fulfilment of the duties under Part Four, Title II, Chapter 8 of the Act in relation to this historical electrical and electronic equipment from households and the Manufacturer shall be obliged to report any and all electrical and electronic equipment placed on the market, manufactured, imported or exported by the Manufacturer since January 1, 2006 and pay for this equipment the contribution for historical electrical and electronic equipment in line with this Contract (paragraphs 4.3. and 4.5. of the Contract, where the contribution shall be payable always in an amount applicable for the period for which the claim for contribution arose).
- Within the deadline for the submission of the extraordinary report under paragraph 4.3. of the Contract, the Manufacturer shall be obliged to demonstrate to the Operator that it had duly paid

contributions for electrical and electronic equipment placed on the market after August 13, 2005 to some another collective scheme registered in the List at least for the period from January 1, 2006 until the date of effect of this Contract, and to deliver to the Operator copies of the contract concluded between the Manufacturer and the other collective scheme and of the reports, invoices and accounts delivered according to this Contract. If the Manufacturer has paid no contributions for electrical and electronic equipment placed on the market after August 13, 2005 to another collective scheme or if it fails to demonstrate this fact to the Operator duly and in time, the Manufacturer shall be obliged to report the relevant electrical and electronic equipment within the extraordinary report and pay for it the contribution for new electrical and electronic equipment in accordance with this Contract (paragraphs 4.3. and 4.5. of the Contract where the contribution shall be payable always in an amount applicable for the period for which the claim for contribution arose); in that case, the Operator shall be obliged to ensure, from the date of effect of this Contract (not earlier), the fulfilment of the duties under Part Four, Title II, Chapter 8 of the Act also in relation to this electrical and electronic equipment. The Manufacturer represents that, prior to the conclusion hereof, it had acquainted itself with the amounts of contributions (fees) applicable to the manufacturers engaged in the ASEKOL s.r.o. collective scheme for the individual periods from January 1, 2006 until the date of conclusion of the Contract.

- 9.2. This Contract is concluded for an indefinite term.
- 9.3. Either party shall be entitled to terminate this Contract at any time in writing 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.
- 9.4. The Operator shall be entitled to withdraw from this Contract in the following cases:
  - a) if a decision on the Manufacturer's insolvency is issued or if an insolvency petition lodged against the Manufacturer has been rejected for insufficient assets,
  - b) if the Manufacturer is in delay in fulfilment of any of its obligations under Article 4 for a period exceeding 1 month,
  - c) if the Manufacturer is in delay in payment of any monetary fulfillment towards the Operator for a period exceeding 2 months,
  - d) if the Manufacturer fails to provide the Fiduciary with due and timely collaboration in the performance of an inspection under paragraph 8.1.,
  - e) if the Manufacturer fails, despite the Operator's written notice, to provide the Operator with collaboration required by the Operator for the fulfilment of its obligations hereunder.
- 9.5. The Manufacturer shall be entitled to withdraw from this Contract in the following cases:
  - 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,
  - b) if some other material fact has occurred as a consequence of which the Operator is no longer able to fulfil the Manufacturer's duties assumed by the Operator on the basis of this Contract.
- 9.6. Withdrawal from this Contract shall become effective upon delivery of a written notice of withdrawal to the other Party. No right of the withdrawing party to a contractual fine, damages or other rights that has been incurred by that party on the basis of this Contract shall be prejudiced by withdrawal from this Contract.
- 9.7. A notice of termination or withdrawal from the Contract shall be delivered, as a rule, by mail in the form of a registered letter to the delivery address specified in the heading of this Contract, unless the other Party has notified a change in the address. Should the recipient fail to accept the mail 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. The possibility of delivering the notice of termination or withdrawal by means of fax, courier or by other appropriate means shall not be excluded thereby.
- 9.8. In case of expiry of this Contract, the Parties shall be obliged to settle their obligations hereunder accordingly pursuant to this Contract; the Manufacturer shall be obliged, in particular, to deliver to the Operator the report, including the term hereof for which the Manufacturer has not delivered a report, in a manner and within the deadlines hereunder; the operator shall thereafter be obliged to account for the advance payment on the fee for such period and the Manufacturer shall be obliged to pay the outstanding fee according this account, all the above subject to the penalties specified in the Contract. The Operator's duties in relation to electrical and electronic equipment and waste electrical and electronic equipment for which it received a

fee from the Manufacturer in accordance with this Contract during the term hereof shall not be prejudiced by expiry of the Contract.

## 10. Final Provisions

- 10.1. The parties hereto agree to comply with the GTC. Upon execution hereof, the Manufacturer acknowledges that, prior to conclusion of the Contract, it has acquainted itself with the GTC and agrees therewith.
- 10.2. Through its website, the Operator shall be entitled to publish a change in the GTC, at least two months before the change is to take effect; this notice (publication) shall be deemed to have been made on the date of posting the notice on the said website and it must include the date on which the change in the GTC is to take effect. If the Operator publishes a notice of a change in the GTC, the Manufacturer shall be entitled to withdraw from this Contract in writing; withdrawal from the Contract represents an exclusive means of expressing disagreement with the draft change in 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 Contract; if the notice of withdrawal is not made in writing, if it does not include express reference to this provision of the Contract or if it is delivered to the Operator after expiry of the one-month deadline, it shall be null and void. If the Manufacturer validly withdraws from the Contract within the specified deadline, the Contract shall expire as of the date preceding the date on which the change in the GTC is to take effect. Unless the Manufacturer withdraws from the Contract after the publication of the notice of the change in the GTC, the Manufacturer shall be deemed to have accepted the draft change in the GTC and the change in the GTC shall then be binding on both Parties. This shall apply accordingly also to announcement of new GTC.
- 10.3. The Operator shall be obliged to send to the Manufacturer, at its request, the valid rates of contributions and information on changes in the GTC by e-mail to the e-mail address of the Manufacturer specified in the heading of this Contract or to some other e-mail address specified by the Manufacturer; however, even in that case, the publication of the change in the rates of contributions and of the change in the GTC on the Operator's website shall be considered to constitute notification of the Manufacturer.
- 10.4. This Contract shall be governed by the laws of the Czech Republic, in particular by the Act and by the Commercial Code. The Parties also agree that disputes arising out of this Contract shall be resolved by the court whose local jurisdiction includes the place of the registered office of the Operator at the time of conclusion of this Contract (Section 89a of the Code of Civil Procedure).
- 10.5. Should any of the provisions of this Contract become invalid, ineffective or unenforceable, this shall not affect the validity of the remaining provisions of the Contract, unless the nature of the Contract, the content thereof or the circumstances under which it was concluded imply that such provision is inseparable from the remaining content of the Contract. If any of the provisions hereof becomes invalid, ineffective or unenforceable and the provision is severable from the remaining content of the Contract, the Parties agree to replace the provision by a new provision having the same or similar purpose without undue delay. In case of amendment to a legal regulation (in particular the Act or its implementing regulations), which amendment requires alteration of this Contract, the parties hereto agree to bring this Contract into accordance with the amended legal regulations not later than within one month of the date of effect of the amendment.
- 10.6. Should any Party not exercise any right arising for it out of this Contract, this shall not be construed as a waiver of the right by that Party; this omission shall also not be considered to be a custom or practice contrary to that right.
- 10.7. This Contract has been drawn up in two counterparts, of which each Party shall obtain one counterpart after execution hereof.
- 10.8. This Contract may be altered, supplemented or terminated (subject to expressly specified exceptions) only in writing; written form shall also be required for legal acts aiming at waiver of the requirement for written form.
- 10.9. The natural persons concluding this Contract on behalf of the individual Parties hereby represent that they are fully authorized to conclude it.
- 10.10. The Parties unanimously represent that they have read this Contract prior to execution thereof and that this Contract has been concluded after mutual negotiations according to the true and free will of the Parties and that they have agreed upon the entire content thereof, in witness whereof they affix their signatures.
- 10.11 This contract is concluded in both Czech and English languages. Both contracting parties hereby

declare to understand both languages versions. In case of any divergences of the mentioned language versions or in case of any disputes regarding the interpretation of the contract, the wording of the Czech contract is decisive.

In \_\_\_\_\_ on: \_\_\_\_\_

In Prague, on:

\_\_\_\_\_

for the Manufacturer

\_\_\_\_\_

for the Operator

- Annex No. 1 – List of groups of electrical and electronic equipment for which joint performance is ensured
- Annex No. 2 – Tariff of contributions (fees)
- Annex No. 3 – Logo of the Manufacturer
- Annex No. 4 – Logo of the Operator
- Annex No. 5 – General Terms and Conditions (GTC)