

General Terms and Conditions

I. Introduction

1. These General Terms and Conditions (hereinafter also referred to as the "GTC"), issued by the company **ECOBAT s.r.o.**, with its registered office at Praha 6, Soborská 1302/8, Postcode 160 00, Business ID (IČO): 267 25 967, incorporated in the Commercial Register administered by the Municipal Court in Prague, Section C, Insert 89816 (hereinafter the "Operator"), set forth the legal relationship between the Operator and specific battery and accumulator producers (hereinafter the "Producer" or "producers"), which have entered into a collective performance agreement or shall enter into a collective performance agreement with the Operator pursuant to S. 9-b) of Act No. 542/2020 Coll., on end-of-life products (hereinafter the "Act"); such collective performance agreement shall be referred to as the "Agreement" in these GTC.
2. Should these GTC or the Agreement refer to an agreement, such reference shall mean the Agreement including the GTC and annexes, unless explicitly stated otherwise.
3. Should these GTC refer to batteries, such reference shall mean collectively or individually portable, industrial or automotive batteries and accumulators, as defined by the Act.
4. Terms are used in these GTC according to the definitions provided in the Agreement, or as defined by applicable legal regulations.
5. By entering into a collective performance agreement, the Producer makes a binding declaration that it is a battery producer, as defined the Act, of all or some of the following categories of batteries: portable batteries, industrial batteries and automotive batteries. As a result, the Producer is required to ensure take-back of the categories of batteries that it places on the market and is required to ensure that waste batteries are taken back at least in the extent required by the Act and is also required to comply with other legal obligations.

II. Fees and Payment Terms

1. Prices and deposits per the Agreement, i.e. the POM and PAC fees (hereinafter also referred to together as the "Fees"), do not include VAT or any other similar tax, unless explicitly stated otherwise. If the Operator becomes obliged to pay such tax on performance per the Agreement (as at the day of issuance of these GTC, this pertains to the obligation to pay VAT), the other Contracting Party obliges to pay such paid tax to the other Contracting Party in excess of the price (deposits) listed in the Agreement. The legally stipulated amount of this tax shall be quantified separately on invoices.
2. Fees shall be paid based on invoices. Invoices shall meet all the requirements of accounting and tax documents required by applicable legal regulations. All payments per the Agreement shall be made in Czech crowns (CZK) and all price data shall be listed solely in this currency. The maturity of fees is 30 calendar days from the invoice date; if the Producer delivers a Report late, the invoice maturity shall be shortened to 10 calendar days from the invoice issue date.
3. Services for which the fee is paid are provided in partial periods per the VAT Act. A partial period in relation to services for which fees are paid equals a quarter of a calendar year. A partial period may also be a six-month calendar period or a one-year calendar period when contractual conditions hereunder are met. If the Agreement lasted only part of a calendar quarter, the partial period is the part of the calendar quarter during which the Agreement was valid.
4. Services for which a POM fee is paid are considered performed in terms of the VAT Act on the date on which a due and complete Report is delivered to the Operator. The Operator shall issue a tax document for said partial performance within fifteen (15) calendar days from the date of taxable performance.
5. Services for which a PAC fee is paid are considered performed in terms of the VAT Act on the date on which the invoice (tax document) is issued by the Operator.
6. The tax document including the sum of the total amount of POM fees and the total amount of PAC fees for the given partial period shall be issued within fifteen (15) calendar days from receipt of the Report for the relevant partial period. Payments shall be paid as electronic transfers to the Operator's account listed in the Agreement, or a different account which the Operator designates in writing. The Contracting Parties undertake to use the applicable variable symbols, if listed in an invoice (tax document), when making payments to the other party. Each participant shall pay bank fees for its own party.
7. The date of payment shall be considered the date on which the given funds are credited to the bank account of the Contracting Party which is the creditor. If the due date falls on a non-business day (Saturday, Sunday, public holiday or other holiday pursuant to Act No. 245/2000 Coll., as amended) the due date shall be the next business day.
8. If the due date listed in the invoice differs from the due date stipulated in the Agreement, the decisive date shall be the due date stipulated in the Agreement.
9. A tax document may also be issued electronically; the Operator shall be obliged to issue it with the information set forth by special regulation.
10. During any delay by the Producer with payment of a fee, the Operator shall not be considered in delay with performance of its obligations per the Agreement.
11. Calculation of VAT for cases with an international component: The Producer shall be required to provide, in a due and timely manner, the Operator data for accurate invoicing (issuance of tax documents) and any modifications to said data. If the Producer meets the statutory conditions for VAT exemption, including compensation (VAT exemption, transfer of location of performance outside of the Czech Republic), it shall be required to provide the Operator with data demonstrating that these conditions have been met no later than:
 - a) The date of conclusion of this Agreement, if the Producer met these conditions at the time that the Agreement came into force;
 - b) Five (5) business days before submitting the Report for the calendar quarter, if the Producer began meeting these conditions during the calendar quarter or in the period prior to submission of the Report for the given calendar quarter.The Producer shall be required to communicate information needed for accurate invoicing (including evidence through relevant documents) to the Operator by the deadlines stated above. Should the Producer fail to communicate data demonstrating fulfillment of statutory conditions for VAT exemption in relation to invoicing compensation, the Operator shall apply VAT to the compensation. Should the Producer fail to communicate a change in data to the Operator by the given deadlines, the Operator shall use the data most recently provided by the Producer.
12. If the statutory conditions are fulfilled, the Operator shall return the received POM fee for ensuring handling end-of-life waste batteries and accumulators in the event that the collected batteries and accumulators do not become waste in the Czech Republic, to the person who demonstrates that the selected product was placed on the market in the Czech Republic and then supplied to a different Member State or exported to a state which is not a member state. If this person is not the Producer, the Producer's explicit consent to the return of the fee in compliance with S. 47(1) of the Act, last sentence, shall be required. If a verification demonstrates that the conditions for return of a fee have not been met, the person requesting the return of the fee shall be obliged to pay the Operator the specific expenses incurred to obtain such verification.

III. Extraordinary Report

1. If the Producer erroneously lists a different quantity of batteries in the Report than it actually placed on the market in the given calendar quarter, or the half-year or year (if it is submitting a semi-annual or annual Report), the Producer shall be required to submit to the Operator an extraordinary Report for the given quarter (or half-year or year), to which the rules for submission of Reports per this Article apply, unless stated otherwise.
2. The Producer shall be required to submit a given extraordinary Report within six months from the end of the calendar quarter to which the extraordinary Report pertains; if the extraordinary Report is being submitted for the third quarter (July–September), the deadline for submission of the extraordinary Report shall be shortened to 5 months, and if the extraordinary Report is being submitted for the fourth quarter (October–December), the deadline for submission of the extraordinary Report shall be shortened to 2 months. If the Producer is required to submit annual or semi-annual Reports pursuant to the Agreement, it shall be required to submit extraordinary Reports within two months from the end of the given period to which the extraordinary Report pertains. If the extraordinary

Report shows that the Operator has a right to a higher POM fee, the Producer shall be required to pay the Operator arrears interest on this increase in the amount stipulated by the GTC for the period, beginning on the Report submission deadline for the quarter (or semi-annual or annual period) to which the extraordinary Report pertains up to the date on which the extraordinary Report is submitted to the Operator. If the extraordinary Report is submitted duly and on time, and the additional POM fee is paid duly and on time, along with the interest on late payment, the Operator's right to a contractual penalty for provision of untruthful or incomplete information per the GTC shall cease to exist. A delay in submission of a Report or extraordinary Report shall not absolve the Producer of the requirement to duly report all batteries placed on the market and pay POM fee on such batteries, if the Producer is required to pay this POM fee.

3. The Producer shall be entitled to file an objection to the effect that it placed on the market a smaller quantity of batteries or a different type of batteries than stated in the Report solely through a corrected Report submitted by the deadlines stated above. Objections submitted later than the stated deadlines shall not be considered, even if the Producer later discovers it did not place any batteries on the market, because the Operator provides performance under this Agreement on a continuous basis based on the Producer's Report.

IV. Audit

1. The Producer shall be required to undergo an audit verifying the Producer's contractual performance if the Operator requests such an audit. The Operator shall be entitled to request an audit at the Producer only once every 6 months; this rule shall not apply if the most recent audit identified a violation of the Producer's obligations or if the Ministry of the Environment or other competent body has requested the audit.
2. The audit shall focus in particular on assessing whether the Producer is providing the Operator with truthful and complete information, whether the Producer is paying the Operator due fees in compliance with the Agreement and whether the Producer is meeting its statutory and contractual obligations in relation to all batteries and accumulators that it places on the market.
3. Audits shall be conducted by an auditor designated by the Operator. The auditor shall always be required to show the Producer a valid authorisation from the Operator to conduct the audit.
4. The Producer shall be required to provide the auditor with due and timely cooperation required for the accurate carrying out of the audit pursuant to the Agreement, in particular to provide truthful and complete information about batteries and accumulators it has placed on the market, and information about fulfilment of the Producer's statutory and contractual obligations in regard to batteries, as per the Act and the Agreement, to allow the auditor to view its accounting documents and other documents, and to make copies if necessary, and to permit the auditor to enter its premises and warehouses under normal conditions. The Producer shall be required to provide such cooperation in a manner enabling the carrying out and completion of the audit within 30 days from the delivery of the notification from the Operator to the Producer stating the intention to carry out an audit at the Producer. The Operator shall be entitled to authorise a person to be present during the audit, but only the auditor shall be entitled to view confidential documents of the Producer, unless the Producer grants its consent.
5. The auditor shall be required to proceed with professional care, protect confidential information that s/he obtains from the Producer, and protect the Producer's legitimate interests. In particular, the auditor shall be required to protect the Producer's business secrets and to not share data comprising such business secrets with third parties. The auditor is in particular forbidden to provide any confidential information s/he discovers to other individuals, including other producers and employees and statutory bodies of the Operator, with the exception of summary reports about the audit and with the exception of data needed to apply the Operator's rights in relation to the Producer, which the auditor is entitled to submit to the Operator. The Operator shall be required to fulfil these obligations and in compliance with the Agreement to contractually bind the auditor to protect confidential information. The Operator bears responsibility for the auditor's fulfilment of these obligations.
6. After the audit has been carried out the auditor shall compile a report in which s/he shall state whether the Producer duly fulfilled its obligations per paragraph 2 herein and which specific obligations the Producer violated, if any, and in what ways. The auditor shall be required to submit a preliminary draft of the report to the Producer and the Operator and allow them to comment on its contents, unless the Producer or the Operator do not provide the necessary cooperation in such commenting without undue delay.
7. Neither the Producer nor the Operator shall be entitled to request a reimbursement from the other party for expenses related to the audit, with the exception of cases in which the Producer does not provide cooperation in compliance with this Agreement or violates other provisions related to the audit; the other provisions of this article shall remain unaffected by this clause.
8. The provisions of this article shall be binding on both Contracting Parties during the contractual period and up to 12 months from the expiry of this Agreement.
9. If the audit reveals that as a result of a failure to report or erroneous reporting the Producer has not paid a POM fee for some batteries which it placed on the market, the Producer shall be obliged to subsequently pay this POM fee.

V. Protection of Confidential Information

1. The Contracting Parties undertake to maintain confidentiality in regard to all confidential information of which they become aware in relation to this Agreement, and to protect the confidentiality of the other party's information from unauthorised use by third parties. That shall not affect the Contracting Parties' right to share this information with their solicitors, tax advisors, auditors or other individuals bound to confidentiality by special legal regulations; such individuals must be informed of the confidential nature of certain information. Information about the conclusion (establishment) and termination (expiry) of this Agreement shall not be considered confidential information.
2. The Producer gives its consent to the Producer to use information about the quantity of batteries and accumulators placed by the Producer on the market in the Czech Republic, which the Producer provides to the Operator in compliance with this Agreement, in demonstrating fulfilment of statutory obligations to competent administrative bodies and fulfilment of record-keeping and notification obligations to the Ministry of the Environment per S. 50 of the Act. The Producer further gives its consent to the Operator to use such information publicly in a consolidated statistical format, which does not enable retrospective determination of the quantity of batteries or accumulators placed on the market by the given Producer.
3. The Operator shall be required to establish technical and organisational internal regulations for the purposes of protecting confidential information. The Operator shall be required to train its employees and members of its bodies about the obligation to maintain confidentiality pursuant to this Agreement and shall be required to duly check that they are maintaining confidentiality. The Operator's employees shall not share confidential information of which they become aware in relation to this Agreement with other employees of the Operator or members of the Operator's bodies, unless it is essential to the fulfilment of their work tasks or in terms of classification thereof.
4. The Producer is aware that the Operator will also enter into collective performance agreements with other entities placing batteries and accumulators on the market.
5. The Operator is authorised to list the Producer in the database of producers involved in the ECOBAT Collective System, which will be publicly available on the Operator's website.

VI. Agreement Duration and Termination

1. This Agreement shall be concluded for an indefinite period of time and may be terminated by:
 - a) A written agreement between the Parties;
 - b) Notice of termination of the Agreement;
 - c) Withdrawal from the Agreement;

- d) Termination of the existence of either of the Contracting Parties, provided that they have no legal successor.
2. Either of the Contracting Parties may terminate this Agreement in writing without giving any reason. The Operator is entitled to terminate this Agreement at the end of the calendar quarter by giving at least three months' notice. The Producer is entitled to terminate this Agreement, which has been concluded for an indefinite period of time, in writing, without giving any reason only once a year, by delivering a notice of termination of the Agreement no later than on the 30 September of the calendar year in which the contractual relationship is to be terminated. In such a case, the Agreement shall be terminated on 31 December of the given year.
3. The Operator may withdraw from the Agreement for the following reasons:
 - a) The Producer failed to duly provide a Report pursuant to Article IV(3) of the Agreement or to fulfil any other obligation stipulated in Article IV of the Agreement and the delay exceeds thirty (30) calendar days;
 - b) The Producer is in default of any payment due to the Operator for more than 2 months;
 - c) The Producer fails to duly and timely cooperate with the auditor pursuant to Article IV(1)(c) of the Agreement or Article IV hereof; or
 - d) A decision on bankruptcy of the Producer has been issued, or a petition for bankruptcy of the Producer has been rejected due to a lack of assets.
4. The Producer may withdraw from the Agreement for the following reasons:
 - a) A decision on bankruptcy of the Operator has been issued, or a petition for bankruptcy of the Operator has been rejected due to a lack of assets; or
 - b) Any other serious event due to which the Operator is no longer able to fulfil the obligations of the Producer that it assumed hereunder, particularly if the Ministry of the Environment withdrew the Operator's authorisation to run the Collective System, based on a final decision and without any compensation, and the Operator is therefore no longer entitled to perform this Agreement.
5. This provision shall not affect the right of both Contracting Parties to withdraw based on the grounds stipulated by binding legislation.
6. Withdrawal from the Agreement shall become effective, i.e. the Agreement shall cease to be in force and effective, upon delivery of a written notice of withdrawal to the other Contracting Party (with effect *ex nunc*). Withdrawal from the Agreement shall not affect the right of the withdrawing party to a contractual fine, damages or other rights arising based on the Agreement until the date of its termination.
7. The notice of termination and notice of withdrawal from the Agreement shall be typically delivered by registered mail to the postal address indicated in the header of this Agreement, unless the other party has given written notification of an address change. This shall not preclude the possibility of delivering the notice of termination or withdrawal by a messenger or any other appropriate means.
8. Should this Agreement be terminated, the Contracting Parties shall settle their obligations hereunder with this Agreement (with the exception of Article III of the GTC); the Producer shall, in particular, provide the Operator with the Report for the last quarter of duration of the Agreement or its part, respecting the method and deadlines specified herein, and pay the POM and PAC fees, subject to the penalties specified in the Agreement. Termination of the Agreement shall not affect the Operator's obligations pertaining to batteries or accumulators which were duly reported by the Producer and for which the Operator received fees from the Producer hereunder during the term of this Agreement.
9. If required by law or by the decision issued to the Operator authorising the operation of a collective system pursuant to S. 37 of the Act, the Operator shall inform the Ministry of the Environment about the termination of this Agreement.

VII. Contractual Penalties

1. If the Producer is in delay with the provision of a due and complete Report, the Operator shall have the right to charge the Producer a contractual fine of CZK 200 for each day of delay, and the Producer shall be obliged to pay the contractual fine charged.
2. Furthermore, if the Producer provides false or incomplete information to the Operator, the Operator shall have the right to charge the Producer a contractual fine amounting to double the positive difference between the POM fee calculated based of the information provided and the POM fee calculated based on the complete and truthful information; the Producer shall be obliged to pay the contractual fine to the Operator. The Operator shall not have the right to impose a contractual fine if the quantity of portable batteries and accumulators placed on the market reported by the Producer is less than 5% lower than the actual quantity. This shall not affect the Producer's obligation to pay the POM fee due, provided that the Producer shall be obliged to pay the POM fee.
3. If the Producer fails to duly and timely cooperate with the auditor pursuant to Article IV(1)(c) of the Agreement or pursuant to Article IV of the GTC, the Operator shall have the right to charge the Producer a contractual fine of CZK 10,000 for each individual case, and to charge the fine repeatedly in case of persistent non-cooperation by the Producer; the Producer shall be obliged to pay the contractual fine charged.
4. In case of a breach of the obligations under Article V(1) of the GTC, the entitled party has the right to charge a contractual fine of CZK 100,000 for each individual case of such breach to the party that has committed the breach, and the party that has committed the breach shall be obliged to pay the contractual fine charged.
5. If the Operator breaches or fails to comply with any of its obligations under Article III of the Agreement, the Producer shall be entitled to charge a contractual fine of CZK 2,500 for each individual case of such breach.
6. If the Producer breaches or fails to comply with any of its obligations under Article IV of the Agreement (with the exception of cases specified above in paragraphs 1 and 2 of this article of the Agreement), the Operator shall be entitled to charge a contractual fine of CZK 2,500 for each individual case of such breach.
7. Neither the contractual fine arrangement nor the payment of the contractual fine shall affect the right to claim damages, interest on late payment, or unjust enrichment. Similarly, the contractual fine arrangement and the payment of the contractual fine shall not affect due entitlement of the relevant Contracting Party to terminate the Agreement unilaterally.
8. In case of delay in any pecuniary performance hereunder, the defaulting party shall pay the amount due as well as interest on late payment to the other Contracting Party, based on the applicable law (S. 1970 of the Civil Code).

VIII. GTC Amendments

1. The Operator is entitled to publish an amendment to the GTC on its website (currently www.ecobat.cz), no later than two months before the effective date of the amendment. This notice (publication) shall be deemed to have been made on the date of placing the notice on the above website, and shall be deemed to be a draft amendment to the GTC; the notice shall specify the date on which the GTC amendment becomes effective.
2. The Operator shall inform the Producer about GTC amendments by sending an e-mail to the Producer's e-mail address indicated in the header of this Agreement, or to any other e-mail address specified by the Producer; nevertheless, publication of GTC amendments on the Operator's website shall still be considered official notification of the amendments to the Producer.
3. When the Operator makes a notification of a GTC amendment, the Producer shall be entitled to terminate the Agreement in writing; termination of the Agreement shall constitute the agreed exclusive instrument to express the Producer's disagreement with the draft amendment to the GTC. The Producer may use its right to terminate the Agreement within one month from publication of the amendment, and the notice of termination shall contain an explicit reference to the relevant provision of the Agreement; the termination shall be null and void if the notice of termination is not made in writing, if it fails to contain an explicit reference to the relevant provision of the Agreement or if it is delivered to the Operator after the one-month period has elapsed.
4. If the Producer duly terminates the Agreement within the specified period, the Agreement shall expire on the date preceding the date on which the GTC amendment becomes effective. If the Producer does not terminate the Agreement after notification of the GTC amendment, it shall be deemed that the Producer accepted the draft amendment to the GTC and thus expressed its will to accept the draft amendment; the amended GTC shall then be binding on both Contracting Parties. The same shall apply if the Producer takes any other legal action towards the Operator that represents acceptance of the draft amendment to the GTC.
5. The above procedure shall similarly apply to publication of new GTC.

IX. Personal Data Protection

1. The Contracting Parties declare that the Operator assumes the position of a personal data controller within the meaning of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (hereinafter referred to as "GDPR").
2. The Producer acknowledges that the Operator, as the controller, processes personal data manually and by automated means in both electronic and hard copy forms in compliance with the relevant personal data protection legislation and throughout the duration of the Agreement, or even after its termination, to ensure due settlement of mutual rights and obligations; the personal data include the data specified in the header of the Agreement and shall be processed solely based on and for the purpose of performance of the Agreement and for the purpose of fulfilling the obligations arising from binding legislation, in particular the Waste Act. The Operator is entitled to transmit personal data to public authorities to the extent necessary. If personal data are not provided, the Agreement may not be concluded. In matters relating to the processing of the Producer's personal data, the Producer is entitled to contact the Operator at the Operator's address or electronically via e-mail: ecobat@ecobat.cz.
3. The Producer has granted the Operator the right to access the Producer's personal data and to the portability of such data. Should the Producer find or consider that the Operator processes its personal data in a manner which is contrary to the protection of its private and personal life or contrary to law, in particular that its personal data are inaccurate with regard to the purpose of their processing, the Producer may ask the Operator for an explanation or request elimination of the mistakes caused. That may include, in particular, the correction, addition or deletion of personal data, and/or restrictions on their processing. The Producer has the right to file a complaint with the Office for Personal Data Protection if it deems that the processing of its personal data violates the relevant personal data protection legislation.

X. Final Provisions and Special Provisions

1. The Agreement and any legal relationships arising therefrom shall be governed by the laws of the Czech Republic, in particular the Act and the Civil Code. The Contracting Parties have further agreed to settle any disputes arising herefrom with the competent court with territorial jurisdiction according to the registered office of the Operator at the moment of concluding this Agreement (S. 89a of the Rules of Civil Procedure).
2. The Operator's signature on notices, invoices, reminder letters, requests, etc. may be replaced by its facsimile.
3. If any of the Contracting Parties does not exercise any right arising under or in connection with this Agreement, this shall not mean that the Contracting Party is giving up or waiving such right; such omission shall also not be considered as standard use or procedure resisting such right.
4. If any provision of the Agreement or the GTC becomes invalid, ineffective or unenforceable, it shall not affect the validity of the other provisions of the Agreement or the GTC, unless it results from the nature of the Agreement or the GTC, their content or the circumstances in which they were concluded that such a provision cannot be separated from the remaining content of the Agreement or the GTC. If any provision of the Agreement or the GTC becomes invalid, ineffective or unenforceable and the provision is separable from the remaining content of the Agreement or the GTC, the Contracting Parties undertake to replace that provision, without undue delay, with a new provision of the same or similar purpose.
5. In case of a change in legislation (in particular the Act), an amendment to the decision issued to the Operator authorising the operation of a collective system pursuant to S. 35(1) of the Act, or replacement of the decision authorising the operation of a collective system by a new decision, which require an amendment to this Agreement, the Contracting Parties shall harmonize the Agreement with the amended legislation or the amended (new) decision authorising the operation of the collective system, no later than within one month from the effective date of such an amendment (new decision).
6. By entering into this Agreement, the Contracting Parties give each other their explicit consent to the delivery of messages, information, message delivery reports, reminders and other notices relating to the Agreement and its performance by electronic means, especially by e-mails sent to their electronic contacts (typically their e-mail addresses). This consent shall further apply to the transmission of business messages pertaining to performance of legal obligations and to the provision of associated services. The Contracting Parties shall have the right to refuse a business message sent by electronic means, in compliance with the applicable legislation.
7. The Contracting Parties have agreed that their communication pertaining, among other things, to the content of the Reports and record-keeping hereunder shall be conducted in the Czech language. If any Contracting Party is to translate a document written in a foreign language to the other Contracting Party, the other Contracting Party shall be entitled to request its official translation into the Czech language; if the document is a public instrument, a higher level of authentication shall be required (apostille or superlegalization).
8. The Contracting Parties have agreed that a statutory limitation period shall apply to the limitation of rights hereunder; however, if the statutory limitation period (subjective or objective) is less than four years, a limitation period of four years shall apply.
9. Damages resulting from or in connection with a breach of this Agreement shall be paid in money only.
10. If a Contracting Party issues a certificate of discharge of a debt payable under this Agreement to the other Contracting Party, the certificate shall only constitute proof of settlement of the debt explicitly specified in the certificate. The Contracting Parties have explicitly agreed that a certificate of discharge of a debt due at a later date shall not automatically prove that a debt due earlier has also been settled.

These GTC were issued by the Operator and became effective on 1 January 2021.

ECOBAT s.r.o.