

PRODUCER WEEE SCHEME

PRODUCER WEEE SCHEME MEMBERSHIP TERMS

1 APPLICATION

- 1.1 These Producer WEEE Scheme Membership Terms ("**Terms**") are applicable to all Members of the Producer WEEE Scheme and are subject to and shall be read in conjunction with and as part of the Membership Terms applicable to the Producer WEEE Scheme (including but not limited to the General Membership Terms) copies of which are available on request and/or at www.valpak.co.uk.
- 1.2 (Except as otherwise expressly provided) the Member acknowledges and agrees that it shall (in addition to its obligations under these Terms) continue to comply with its obligations under all of the other Membership Terms applicable to the Member's membership of the Producer WEEE Scheme (including but not limited to the General Membership Terms).
- 1.3 If there is any conflict between these Terms and any other terms of the Agreement the following order of precedence shall apply:
- (a) the Application Form applicable to the Member's membership of the Producer WEEE Scheme; then
 - (b) (in relation to any Additional Services only)(where relevant) the relevant terms and conditions applicable to such Additional Services; then
 - (c) clause 2.5 of these Terms; then
 - (d) (in relation to the Producer WEEE Scheme MCEP only) (where relevant) the Producer WEEE Scheme MCEP; then
 - (e) (subject to clause 1.3(c)) these Terms; then
 - (f) the General Membership Terms; then
 - (g) any other terms forming part of the Agreement that are not referred to above.

2 DEFINITIONS AND INTERPRETATION

- 2.1 In these Terms words and expressions defined in the General Membership Terms shall (where the context so permits) have the meanings set out in the General Membership Terms unless differently defined below for the specific purposes of these Terms.
- 2.2 In these Terms words and expressions defined in any clause shall (where the context so permits) have the meanings set out in such clause and the following words and expressions shall (where the context so permits) have the following meanings:

"Appropriate Authority" has the same meaning as in the Regulations;

"B2B" means and/or relates to EEE that was or is intended for use by users other than private households and/or WEEE from users other than private households (as appropriate);

"B2B Member" means a Member whose membership of the Producer WEEE Scheme relates to EEE that was or is intended for use by users other than private households and WEEE from users other than private households under the Regulations; and **"B2B Members"** shall be construed accordingly;

"B2B Producer Responsibility Obligations" means (in relation to each Obligation Year or part of an Obligation Year) the following obligations on behalf of and in relation to a B2B Member:

- (a) to apply to register the Member with the Appropriate Authority or to notify the Appropriate Authority that the Member has become a Member of the Producer WEEE Scheme (as appropriate) in accordance with the Regulations;
- (b) to notify the Member of any EEE producer registration number issued by the Appropriate Authority to the Member; and
- (c) to manage the reporting of the Member's own Declaration of Compliance to the Appropriate Authority

where and to the extent this relates to EEE that was or is intended for use by users other than private households that was put on the market in the United Kingdom and/or WEEE from users other than private households that has arisen in the United Kingdom (as appropriate);

"B2C" means and/or relates to EEE that was or is intended for use by private households and/or WEEE from private households (as appropriate);

"B2C Member" means a Member whose membership of the Producer WEEE Scheme relates to EEE that was or is intended for use by private households and WEEE from private households under the Regulations; and **"B2C Members"** shall be construed accordingly;

"B2C Producer Responsibility Obligations" means (in relation to each Obligation Year or part of an Obligation Year) the following obligations on behalf of and in relation to a B2C Member:

- (a) to apply to register the Member with the Appropriate Authority or to notify the Appropriate Authority that the Member has become a Member of the Producer WEEE Scheme (as appropriate) in accordance with the Regulations;
- (b) to notify the Member of any EEE producer registration number issued by the Appropriate Authority to the Member;
- (c) to finance (in accordance with the Regulations) the costs of the collection, treatment, recovery and environmentally sound disposal of WEEE from private households:
 - (i) that is deposited at a designated collection facility; or

- (ii) returned by a distributor under regulation 32 of the Regulations but is not deposited at a designated collection facility

of the amount of the relevant WEEE (as determined in accordance with the Regulations) for which such Member is responsible for (or would be responsible for but for its membership of the Producer WEEE Scheme) under the Regulations ("**Relevant WEEE**");

- (d) to provide evidence of the collection, treatment, recovery and environmentally sound disposal of the Relevant WEEE in accordance with the Regulations;
- (e) to meet the targets for the Relevant WEEE sent for treatment in accordance with the Regulations; and
- (f) (where relevant) to report to the Appropriate Authority in relation to the Relevant WEEE in accordance with the Regulations

where and to the extent this relates to EEE that was or is intended for use by private households that was put on the market in the United Kingdom and/or WEEE from private households that has arisen in the United Kingdom (as appropriate);

"Data Form" means the data form provided by a member to Valpak in accordance with clause 7.2 or clause 7.3, as appropriate, in a form prescribed by Valpak from time to time;

"Declaration of Compliance" means a declaration of compliance provided by the Member to Valpak in accordance with clause 5.5;

"Directive" has the same meaning as in the Regulations;

"disposal" has the same meaning as in the Regulations;

"EEE" has the same meaning as in the Regulations;

"Evidence Note" has the same meaning as in the Regulations;

"General Membership Terms" means the general membership terms and conditions applicable to all Members (a copy of which is available on request and/or at www.valpak.co.uk);

"Levy" means the Membership Fee as defined in clause 8.4 and the Material Levy as defined in clause 8.6;

"Member" means (except as otherwise expressly provided in clause 9.1) a Producer which has become a member of the Producer WEEE Scheme in accordance with clause 3.1; and **"Members"** shall be construed accordingly;

"Obligation Year" means a relevant compliance period (as set out in the Regulations) during which the Member's membership of the Producer WEEE Scheme subsists;

"Producer" has the same meanings as in the Regulations;

"Producer Responsibility Obligations" means (where the Producer WEEE Scheme has been approved under the Regulations):

- (a) (in relation to a Member that is a B2B Member) the B2B Producer Responsibility Obligations; and/or
- (b) (in relation to a Member that is a B2C Member) the B2C Producer Responsibility Obligations

(for the avoidance of doubt where the Member is a B2B Member and a B2C Member Valpak shall only apply to register the Member under a single registration with the Appropriate Authority and shall not apply to register the Member separately as both a B2B Member and as a B2C Member);

"Producer WEEE Scheme" means (as appropriate):

- (a) the proposed Producer WEEE compliance scheme operated by Valpak that is or shall become the subject of an application for approval made under the Regulations; and/or
- (b) the Producer WEEE compliance scheme operated by Valpak that has been approved under the Regulations;

"Producer WEEE Scheme MCEP" means the Producer WEEE Scheme Members compliance and surplus evidence policy terms and conditions (a copy of which is available on request and/or at www.valpak.co.uk);

"recovery" has the same meaning as in the Regulations; and **"recovered"** shall be construed accordingly;

"recycling" has the same meaning as in the Regulations; and **"recycled"** shall be construed accordingly;

"Regulations" means the Waste Electrical and Electronic Equipment Regulations 2006 in force in the United Kingdom;

"reuse" has the same meaning as in the Regulations;

"treatment" has the same meaning as in the Regulations; and **"treated"** shall be construed accordingly;

"WEEE" has the same meaning as in the Regulations; and

"WEEE from private households" has the same meaning as in the Regulations.

2.3 References in these Terms to clauses are (unless otherwise expressly provided) references to clauses contained in these Terms.

2.4 References in these Terms to "net" Producer Responsibility Obligation(s) shall be references to the relevant obligation(s) after having taken into account Evidence Notes and/or Proof of Reuse that have been offset against such obligation(s) under the relevant Producer WEEE Scheme MCEP (where applicable).

- 2.5 In accordance with the Regulations there is an obligation that where the Member's membership of the Producer WEEE Scheme is cancelled any such cancellation shall not take effect until the expiry of the then current Obligation Year. (Notwithstanding any other provision of the Membership Terms applicable to the Producer WEEE Scheme) the Membership Terms applicable to the Producer WEEE Scheme shall be subject to and shall be construed so as to comply with this obligation under the Regulations.
- 2.6 (Notwithstanding any other Membership Terms applicable to the Producer WEEE Scheme)(where and to the extent that Valpak (acting in the best interests of the Members of the Producer WEEE Scheme as a whole) believes that it is appropriate to do so) Valpak shall be entitled to require each Member to pay in full and in advance such proportion of the Levy (and any other sums due to Valpak in relation to the Producer WEEE Scheme) as Valpak may from time to time (acting reasonably) decide.
- 2.7 (Notwithstanding any other Membership Terms applicable to the Producer WEEE Scheme) the payments to be made by the Member to Valpak in accordance with clause 2.6 shall be paid in full without any deduction, withholding, counterclaim or set off within such timescales as Valpak may from time to time (acting reasonably) require.

3 MEMBERSHIP OF THE PRODUCER WEEE SCHEME

- 3.1 (Except as otherwise expressly provided in clause 9.1) a Producer shall become a Member of the Producer WEEE Scheme when Valpak countersigns the Application Form applicable to such Producer in relation to the Producer WEEE Scheme. A Producer must apply to join the Producer WEEE Scheme for a minimum period of one Obligation Year or (in relation to a new Producer) for the remainder of the Obligation Year during which such Producer has commenced putting EEE onto the market in the United Kingdom.
- 3.2 A Member may become a Member of the Producer WEEE Scheme as a:
- (a) B2B Member only;
 - (b) B2C Member only; or
 - (c) B2B Member and a B2C Member.

For the avoidance of doubt where the Member is a B2B Member and a B2C Member the Member shall only be a single Member of the Producer WEEE Scheme (with a single scheme membership number).

- 3.3 Valpak shall:
- (a) use reasonable endeavours to produce and promptly (in accordance with the relevant deadline for submission) submit a professional and thorough application for approval of the Producer WEEE Scheme which Valpak believes shall be granted under the Regulations;
 - (b) notify the Member in writing where Valpak has received a notification from the Appropriate Authority that Valpak's application for the approval of the Producer WEEE Scheme under the Regulations has been granted; and

- (c) notify the Member in writing should Valpak not have successfully appealed any decision of the Appropriate Authority to refuse to approve the Producer WEEE Scheme under the Regulations.
- 3.4 (Subject to clause 3.5 and 3.6) once the Producer WEEE Scheme has been approved under the Regulations Valpak shall (subject to and in accordance with these Terms) assume and discharge on behalf of and in relation to the Member:
- (a) the B2B Producer Responsibility Obligations:
 - (i) (in accordance with the relevant deadlines for submission set out in the Regulations) in relation to the obligation to apply to register the Member with the Appropriate Authority or to notify the Appropriate Authority that the Member has become a Member of the Producer WEEE Scheme (as appropriate); and
 - (ii) (with effect from registration of the Member with the Appropriate Authority under the Producer WEEE Scheme or notification to the Appropriate Authority that the Member has become a Member of the Producer WEEE Scheme (as appropriate)) in relation to all other B2B Producer Responsibility Obligations not referred to in clause 3.4(a)(i)

but only in relation to each Obligation Year or part of an Obligation Year during which the Member's membership of the Producer WEEE Scheme as a B2B Member subsists; and
 - (b) the B2C Producer Responsibility Obligations:
 - (i) (in accordance with the relevant deadlines for submission set out in the Regulations) in relation to the obligation to apply to register the Member with the Appropriate Authority or to notify the Appropriate Authority that the Member has become a Member of the Producer WEEE Scheme (as appropriate); and
 - (ii) (with effect from registration of the Member with the Appropriate Authority under the Producer WEEE Scheme or notification to the Appropriate Authority that the Member has become a Member of the Producer WEEE Scheme (as appropriate)) in relation to all other B2C Producer Responsibility Obligations not referred to in clause 3.4(b)(i)

but only in relation to each Obligation Year or part of an Obligation Year during which the Member's membership of the Producer WEEE Scheme as a B2C Member subsists.
- 3.5 (Subject to clause 10.4) where the Member's membership of the Producer WEEE Scheme (as a B2B Member and/or as a B2C Member) terminates during an Obligation Year Valpak shall not be liable to either return or provide any applicable Evidence Notes and/or Proof of Reuse to the Member.
- 3.6 Valpak reserves the right to refuse to register the Member with the Appropriate Authority or to refuse to notify the Appropriate Authority that the Member has become a Member of the Producer WEEE Scheme (as appropriate) in accordance with the Regulations where that Member does not for any reason:

- (a) provide any and/or all information to Valpak in accordance with the Membership Terms applicable to the Producer WEEE Scheme or does not provide such information to the required standard of accuracy; and/or
- (b) pay any and/or all sums due to Valpak in accordance with the Membership Terms applicable to the Producer WEEE Scheme.

3.7 For the avoidance of doubt the Member acknowledges and agrees that:

- (a) Valpak shall not (except as expressly provided otherwise in these Terms) be responsible under these Terms and/or the Regulations for or in relation to any:
 - (i) EEE that was or is intended for use by users other than private households;
 - (ii) WEEE from users other than private households;
 - (iii) EEE put on the market outside the United Kingdom and/or WEEE that has arisen outside the United Kingdom; and/or
 - (iv) EEE/WEEE to which the Regulations do not apply;
- (b) the responsibilities of Valpak expressly provided in these Terms in relation to the EEE/WEEE set out in clauses 3.7(a)(i) and 3.7(a)(ii) are only meant to assist the Member and are not a substitute for the Member complying with the Member's responsibilities under clause 3.7(c); and
- (c) the Member shall at all times be and remain responsible for the EEE/WEEE set out in clause 3.7(a) and for complying with these Terms and the Regulations in relation to such EEE/WEEE.

4 MEMBER'S OBLIGATIONS

- 4.1 The Member shall comply with the Regulations and all reasonable recommendations made by Valpak in relation to the Member's Producer Responsibility Obligations.
- 4.2 The Member acknowledges and agrees that the Member shall at all times be and remain responsible for the collection, treatment, recovery and environmentally sound disposal of WEEE from users other than private households and for financing the costs of the collection, treatment, recovery and environmentally sound disposal of WEEE from users other than private households and the Member shall have its own arrangements in place for dealing with such WEEE and such arrangements shall be carried out by the Member in a way that is consistent with the obligations placed on an operator of a scheme under the Regulations.
- 4.3 (Where and to the extent that the Member has requested and Valpak has agreed to provide any additional services to the Member as part of the Member's membership of the Producer WEEE Scheme and/or to assist the Member in complying with its obligations and responsibilities under these Terms and/or the Regulations ("**Additional Services**")) the Member shall comply with the relevant terms and conditions applicable to such Additional Services.

- 4.4 The Member shall use its reasonable endeavours in relation to the operation of its own business, insofar as it is both reasonably practicable and economically appropriate to maintain good environmental practises.
- 4.5 The Member hereby irrevocably and unconditionally agrees to indemnify and keep indemnified Valpak from and against all demands, claims, liabilities, losses, damages, costs and expenses whatsoever (including all reasonable legal and other costs and expenses, together with value added and similar taxes thereon (if applicable) incurred by Valpak in enforcing Valpak's rights under this indemnity) and from and against all actions, suits and proceedings which may be commenced, taken or made against Valpak arising in relation to or in connection with any breach by the Member of the clauses 3.7(c) and/or 4.2. The provisions of this clause 4.5 shall continue in force notwithstanding termination of the Agreement howsoever caused.

5 B2B MEMBER'S OBLIGATIONS

- 5.1 (In addition to all of the other Terms applicable to the Member) in each Obligation Year in which the Member is a B2B Member the terms of this clause 5 shall also apply in relation to the Member's membership of the Producer WEEE Scheme as a B2B Member (but not otherwise).
- 5.2 The Member agrees that, whilst it is a B2B Member, it shall not seek to fulfil its B2B Producer Responsibility Obligations other than pursuant to its membership of the Producer WEEE Scheme such as by fulfilling those obligations itself, or by contracting with a third party, or by joining another compliance scheme registered under the Regulations or in any other way. For the avoidance of doubt nothing in this clause 5.2 shall prevent the Member fulfilling its B2C Producer Responsibility Obligations itself, or by contracting with a third party, or by joining another compliance scheme registered under the Regulations or in any other way.
- 5.3 (Without prejudice to any other rights or remedies Valpak may have) where and to the extent that the Member is in breach of its obligations under clauses 3.7(c) and/or 4.2 or Valpak acting reasonably believes that the Member may be in breach of its obligations under clauses 3.7(c) and/or 4.2 Valpak shall be entitled (but not obliged) on behalf of the Member to fulfil the Member's obligations under clauses 3.7(c) and/or 4.2 in whole or in part.
- 5.4 The Member hereby irrevocably and unconditionally agrees to indemnify and keep indemnified Valpak from and against all demands, claims, liabilities, losses, damages, costs and expenses whatsoever (including all reasonable legal, consultancy, collection, treatment and other costs and expenses, together with value added and similar taxes thereon (if applicable) incurred by Valpak in fulfilling the Member's obligations in accordance with clause 5.3 and/or enforcing Valpak's rights under this indemnity) and from and against all actions, suits and proceedings which may be commenced, taken or made against Valpak arising in relation to or in connection with Valpak fulfilling the Member's obligations in accordance with clause 5.3. The provisions of this clause 5.4 shall continue in force notwithstanding termination of the Agreement howsoever caused.
- 5.5 (Notwithstanding the Member's obligations under clause 7 and subject to clauses 5.6 and 5.7) the Member shall be responsible for providing to Valpak a Declaration of Compliance in relation to each Obligation Year on or before 15 January in the immediately following Obligation Year. For the avoidance of doubt the Declaration of Compliance shall be incorporated into the Data Form.

5.6 The Declaration of Compliance shall:

- (a) be in writing, incorporated into the Data Form or in such format as Valpak may reasonably request and signed off by the Member in accordance with such requirements as Valpak may reasonably request;
- (b) include (in relation to WEEE from users other than private households in respect of which the Declaration of Compliance is being issued) a declaration:
 - (i) that the Member either has or has not met its obligations to finance the costs of the collection, treatment, recovery and environmentally sound disposal of WEEE from users other than private households in accordance with the Regulations;
 - (ii) of the amount of WEEE (in tonnes) for which the Member has been responsible for financing the costs of the collection, treatment, recovery and environmentally sound disposal of WEEE from users other than private households within each specified category in accordance with the Regulations; and
- (c) include such other information as may be required by the Regulations and/or by Valpak acting reasonably.

5.7 For the avoidance of doubt the Member acknowledges and agrees that:

- (a) the Declaration of Compliance shall be used by Valpak to provide a declaration of compliance to the Appropriate Authority on behalf of the Member and must therefore be such as to enable Valpak to comply with its obligations under the Regulations; and
- (b) the Member shall be and remain responsible for ensuring that the Declaration of Compliance is as accurate as reasonably possible.

5.8 The provisions of this clause 5 (except clause 5.2) shall continue in force notwithstanding the termination of the Agreement howsoever caused.

6 B2C MEMBER'S OBLIGATIONS

6.1 (In addition to all of the other Terms applicable to the Member) in each Obligation Year in which the Member is a B2C Member the terms of this clause 6 shall also apply in relation to the Member's membership of the Producer WEEE Scheme as a B2C Member (but not otherwise).

6.2 The Member agrees that, whilst it is a B2C Member, it shall not seek to fulfil its B2C Producer Responsibility Obligations other than pursuant to its membership of the Producer WEEE Scheme such as by fulfilling those obligations itself, or by contracting with a third party, or by joining another compliance scheme registered under the Regulations or in any other way. For the avoidance of doubt nothing in this clause 6.2 shall prevent the Member fulfilling its B2B Producer Responsibility Obligations itself, or by contracting with a third party, or by joining another compliance scheme registered under the Regulations or in any other way.

6.3 The Member shall comply with the relevant Producer WEEE Scheme MCEP.

7 PROVISION OF INFORMATION

- 7.1 The Member shall provide Valpak, within the time limits specified by Valpak, such information in such form and to the standard of accuracy as may be requested from time to time by Valpak including, but without limitation:
- (a) information required by Valpak to enable Valpak to comply with its obligations under these Terms;
 - (b) information relating to the actual and estimated obligations of the Member under the Regulations and/or such obligations the Member would have had but for its membership of the Producer WEEE Scheme, including, but without limitation, data verifying the information provided to Valpak and a description of how the Member or Group Companies have collected and collated the information;
 - (c) (if the Member has Evidence Notes and/or Proof of Reuse that are subject to the Producer WEEE Scheme MCEP) information required by Valpak in connection with the implementation, operation and/or any alleged breach of the Producer WEEE Scheme MCEP;
 - (d) (in relation to B2B Members only) information relating to the methodology the Member proposes to use to comply with its obligations under these Terms and/or the Regulations; and
 - (e) information on the producer identification mark and the date mark (as defined in the Regulations and guidance) used by the Member in compliance with the Regulations.
- 7.2 Where a Member joins the Producer WEEE Scheme after the 15 November in the year immediately preceding the relevant Obligation Year (for any year following the first compliance period) it shall submit the relevant Data Form (completed to Valpak's reasonable satisfaction) as soon as reasonably practicable and no later than 15 days from the date it became a Member.
- 7.3 Where the Member is a B2C Member (notwithstanding the Member's obligations under clauses 7.1 and 7.2) the Member shall (commencing on the commencement of the first compliance period) submit a relevant Data Form in relation to each Quarter (completed to Valpak's reasonable satisfaction) to Valpak on or before the 15th of the month following the end of such Quarter.
- 7.4 Where the Member is a B2B Member (notwithstanding the Member's obligations under clauses 7.1 and 7.2) (with effect from the commencement of the first compliance period and thereafter) the Members shall submit a relevant Data Form which shall incorporate the Declaration of Compliance in accordance with clause 5.5 above annually in relation to each Obligation Year on or before the 15th January following the end of the relevant Obligation.
- 7.5 On receipt of any Data Form under clauses 7.2, 7.3 and/or 7.4 Valpak shall use reasonable endeavours to check the data to help to ensure that it is deemed to be as accurate as reasonably possible and then send out a verification form and/or declaration of compliance to the Member. For the avoidance of doubt the Member acknowledges and agrees that (notwithstanding the fact that Valpak shall check the data in accordance with this clause 7.5) the Member shall remain responsible for ensuring that the data is as

accurate as reasonably possible. The Member shall then arrange for this verification form and/or declaration of compliance to be signed off by the Member in accordance with such requirements as Valpak may reasonably request.

- 7.6 The Member shall (unless otherwise agreed in writing with Valpak) ensure that the verification form and/or declaration of compliance (referred to in clause 7.5) is signed off by the Member in accordance with clause 7.5 and returned to Valpak:
- (a) (where the verification form and/or declaration of compliance relate to a Data Form submitted in accordance with clause 7.2) as soon as possible and in any event within 7 days from the date of receipt by the Member of the verification form and/or declaration of compliance;
 - (b) (where the verification form and/or declaration of compliance relates to a Data Form submitted in accordance with clause 7.3) within 7 days from the date of receipt by the Member of the verification form and/or declaration of compliance or by the 26th of the month following the end of relevant Quarter (whichever is the earlier); and
 - (c) (where the verification form and/or declaration of compliance relates to a Data Form submitted in accordance with clause 7.4) within 7 days from the date of receipt by the Member of the verification form and/or declaration of compliance or by the 26 January following the end of the relevant Obligation Year (whichever is the earlier).
- 7.7 The Member shall inform Valpak immediately upon becoming aware of any change in the Member's obligations under the Regulations and/or any information provided by the Member to Valpak in connection with the Member's membership of the Producer WEEE Scheme.
- 7.8 (Without prejudice to any other rights or remedies Valpak may have) where and to the extent that the Member does not for any reason provide any information to Valpak in accordance with the Membership Terms applicable to the Producer WEEE Scheme or does not provide such information to the required standard of accuracy Valpak shall be entitled (but not obliged) to make a reasonable estimate of what such information would have been had it been provided as required and Valpak shall be entitled to invoice and the Member shall pay Valpak based on such estimated information.
- 7.9 The Member hereby irrevocably and unconditionally agrees to indemnify and keep indemnified Valpak from and against all demands, claims, liabilities, losses, damages, costs and expenses whatsoever (including all reasonable legal and other costs and expenses, together with value added and similar taxes thereon (if applicable) incurred by Valpak in enforcing Valpak's rights under this indemnity) and from and against all actions, suits and proceedings which may be commenced, taken or made against Valpak arising in relation to or in connection with Valpak having to estimate information in accordance with clause 7.8 (including but not limited to any consultancy costs and expenses incurred by Valpak to enable Valpak to make such an estimate). The provisions of this clause 7.9 shall continue in force notwithstanding termination of the Agreement howsoever caused.
- 7.10 The Member shall maintain and store in either electronic or written form within the United Kingdom all documents, data and/or appropriate records it holds, obtains or creates in respect of its membership of the Producer WEEE Scheme and in respect of its obligations under these Terms for a minimum of 4 years from the date on which such

document, data and/or record is made and the Member shall make available such document, data and/or records to Valpak on demand.

- 7.11 Valpak may from time to time on reasonable notice in its absolute discretion alter the requirements for the format or period of storage as set out in clause 7.10.
- 7.12 The Member shall provide Valpak with details (including telephone, fax number and email) of a nominated individual for the service of notices and other communications, under and in connection with the Producer WEEE Scheme.
- 7.13 The provisions of this clause 7 shall continue in force notwithstanding the termination of the Agreement howsoever caused.

8 LEVY

- 8.1 The Member shall (both in its capacity as a B2B Member and separately as a B2C Member (as appropriate)) pay to Valpak:
 - (a) the relevant Membership Fee (applicable to the Member) in respect of each Obligation Year in which the Member is a B2B Member and/or a B2C Member (as appropriate); and
 - (b) a sum equivalent to the amount required under the Regulations (or any other Legislation) to be paid by Valpak in each Obligation Year to the Appropriate Authority in respect of the Member's membership of the Producer WEEE Scheme (as a B2B Member and a B2C Member (as appropriate)).

The Membership Fee and any sums payable under clause 8.1(b) shall (unless otherwise be agreed) be payable in full and in advance on application by the Producer to become a Member of the Producer WEEE Scheme or in the November of the year immediately preceding the Obligation Year (by way of example only, the fee and the sums payable under clause 8.1 in respect of the 2012 Obligation Year shall be payable in November 2011).

- 8.2 The Member shall (as a B2C Member) also pay to Valpak the Material Levy in respect of each Obligation Year in which the Member is a B2C Member.
- 8.3 Where the Member is a B2B Member and a B2C Member Valpak may (in its absolute discretion) provide a discount against the sums payable in accordance with clause 8.1.
- 8.4 Valpak shall from time to time publish its fees for membership of the Producer WEEE Scheme ("**Membership Fee**") (a copy of which is available on request and/or at www.valpak.co.uk).
- 8.5 The Membership Fee payable by the Member in respect of each Obligation Year shall be:
 - (a) the Membership Fee current at the date on which the Member becomes a Member of the Producer WEEE Scheme (in relation to the first year in which the Member is a Member of the Producer WEEE Scheme);

- (b) the Membership Fee applicable for the relevant Obligation Year (in relation to the second and each subsequent year in which the Member is a Member of the Producer WEEE Scheme); and
 - (c) paid by the Member in full and in advance within 30 days from the date of invoice.
- 8.6 (Subject to clauses 8.7 and 8.8) the material levy shall in each Obligation Year be computed by reference to the following elements in relation to the Producer WEEE Scheme ("**Material Levy**"):
 - (a) the cost to Valpak of fulfilling the Member's net B2C Producer Responsibility Obligation(s) in that Obligation Year;
 - (b) such costs and expenses incurred directly or indirectly by Valpak in operating the Producer WEEE Scheme in the interests of the Members of the Producer WEEE Scheme as a whole (such sum shall be calculated on a fair basis and with a view to ensuring, so far as reasonably possible, that Valpak in total makes neither a profit nor a loss);
 - (c) the cost of any surplus Evidence Notes acquired by Valpak;
 - (d) such costs and expenses as may be incurred directly or indirectly by Valpak in relation to any arrangements put in place to recover the costs of treating hazardous WEEE under any future Legislation; and
 - (e) such a sum by way of contribution to reserves, contingencies and investments as either Valpak shall have identified in its budget or is proved to be necessary in operating the Producer WEEE Scheme in its Members' best interests.
- 8.7 In relation to the Material Levy the costs in respect of all B2C Members net B2C Producer Responsibility Obligation(s) shall be allocated amongst B2C Members in accordance with such principles as Valpak may from time to time (acting reasonably) decide.
- 8.8 For the avoidance of doubt in computing the Material Levy Valpak may estimate, allocate and apportion such costs and expenses as it shall consider reasonable and appropriate.
- 8.9 (Unless otherwise agreed in writing) the Material Levy payable for each Obligation Year shall be payable by the Member on a quarterly basis and shall be paid in the Quarter to which the payment relates. Valpak shall invoice an instalment of the Material Levy in January, April, July and October of an Obligation Year and the Member shall pay in full within 30 days from the date of the invoice. For example, the first payment in an Obligation Year shall be invoiced in January which shall relate to the first Quarter and the second invoice shall be issued in April which relates to the second Quarter. Each instalment shall be as to one-quarter of the then estimated Material Levy plus or minus any shortfall or surplus (as appropriate) in the total payments made during the previous Quarter(s) in the light of the then estimated Material Levy.
- 8.10 Valpak's rights under this clause 8 shall be in addition to the right to claim interest on late payment set out in the General Membership Terms.

9 GROUP MEMBERSHIP

9.1 Where a Common Holding Company is not a Producer and/or does not have any producer responsibility obligations under the Regulations that Common Holding Company:

- (a) shall not be a Member of the Producer WEEE Scheme in its own right;
- (b) may (notwithstanding clause 9.1(a)):
 - (i) sign the Application Form;
 - (ii) act as the Common Holding Company; and
 - (iii) be a Member of the Producer WEEE Scheme

for and on behalf of all other Group Companies which are part of the Group Membership subject to and in accordance with this clause 9.1 and the Group Membership provisions set out in the General Membership Terms;

- (c) shall be responsible to Valpak for ensuring that each Group Company that is a Member of the Producer WEEE Scheme as part of the Group Membership complies with the Membership Terms applicable to the Producer WEEE Scheme;
- (d) shall for the purposes of the Membership Terms applicable to the Producer WEEE Scheme be deemed to be a Member of the Producer WEEE Scheme subject to and on the basis of this clause 9.1;
- (e) (without prejudice to the generality of clause 9.1(d)) shall for the purposes of clause 4 of the General Membership Terms be deemed to be a Member of the Producer WEEE Scheme; and
- (f) shall for the purposes only of the articles of association of Valpak be deemed to have producer responsibility obligations under the Regulations.

10 EFFECTIVE DATE AND TERMINATION

10.1 (Without prejudice to any other terms of the Agreement) the Member's membership of the Producer WEEE Scheme as a whole and/or as a B2B Member and/or as a B2C Member (as appropriate) may be terminated in the following circumstances:

- (a) by Valpak by notice in writing to the Member to take effect either forthwith or at such time as may be specified in such notice on or after the occurrence of any of the following events:
 - (i) any failure by the Member to comply with the provisions of clauses 3.7(c), 4.1, 4.2 and/or 4.5;
 - (ii) the Member does not comply with the relevant terms and conditions applicable to any Additional Services (where applicable in accordance with clause 4.3);

- (iii) any failure by the Member to comply with the provisions of clause 7; and/or
 - (iv) the Member informs Valpak of any change in accordance with clause 7.7 where Valpak (acting reasonably) believes that such change adversely affects or is likely to adversely affect the interests of the Members of the Producer WEEE Scheme as a whole;
- (b) by Valpak by notice in writing with immediate effect where the Member ceases to be a Producer (for whatever reason);
 - (c) by either party by notice in writing with immediate effect where Valpak does not (for whatever reason) submit any application for approval of the Producer WEEE Scheme under the Regulations by the relevant deadline for such application or where Valpak has not successfully appealed (for whatever reason) any decision of the Appropriate Authority to refuse to approve the Producer WEEE Scheme under the Regulations;
 - (d) (where the Producer WEEE Scheme has been approved by the Appropriate Authority under the Regulations) by either party by notice in writing with immediate effect if the approval of the Producer WEEE Scheme is withdrawn for any reason under the Regulations; and/or
 - (e) by Valpak giving not less than 90 days notice in writing to the Member prior to the expiry of the then current Obligation Year (such notice to take effect on the expiry of the then current Obligation Year).
- 10.2 (Without prejudice to any other terms of the Agreement) the Member's membership of the Producer WEEE Scheme as a B2B Member may be terminated in the following circumstances:
- (a) by Valpak by notice in writing to the Member to take effect either forthwith or at such time as may be specified in such notice on or after the failure by the Member to comply with the provisions of clause 5; and/or
 - (b) by the Member giving not less than 90 days notice in writing to Valpak prior to 15 November in any Obligation Year (such notice to take effect on the expiry of the then current Obligation Year).
- 10.3 (Without prejudice to any other terms of the Agreement) the Member's membership of the relevant Producer WEEE Scheme as a B2C Member may be terminated in the following circumstances:
- (a) by Valpak by notice in writing to the Member to take effect either forthwith or at such time as may be specified in such notice on or after the occurrence of any of the following events:
 - (i) any failure by the Member to comply with the provisions of clause 6; and/or
 - (ii) the Member does not comply with the terms of the Producer WEEE Scheme MCEP; and/or

- (b) by the Member giving not less than 90 days notice in writing to Valpak prior to 15 November in any Obligation Year (such notice to take effect on the expiry of the then current Obligation Year).

10.4 Where the approval of the Producer WEEE Scheme is withdrawn for any reason under the Regulations Valpak shall allocate Evidence Notes acquired by Valpak in complying with Valpak's obligations under the Regulations between the Members of the Producer WEEE Scheme in accordance with the following principles:

- (a) Evidence Notes obtained from a Member under the Producer WEEE Scheme MCEP for offset against that Member's Producer Responsibility Obligations shall be allocated to that Member; and then
- (b) all other remaining Evidence Notes shall be allocated to each Member who has paid all sums due to Valpak from such Member in accordance with the Membership Terms applicable to the Producer WEEE Scheme in proportion to such sums paid by that Member.