

## SPECIAL TERMS AND CONDITIONS (VALPAK WASTE MANAGER)

Where Valpak agrees to provide Client with access to the VWM Platform (as defined below) then the terms of these Special Terms shall apply in addition to the General Terms and the Proposal.

### 1. DEFINITIONS

1.1. For the purposes of these Special Terms, in addition to the definitions defined in the General Terms, the following words and expressions have the following meanings:

“**Account**” means the account that is set up for the Client and through which the Client can access and use the VWM Service using a unique user ID(s) and password(s);

“**Client Policies**” means the company-specific policies or strategies that are created by the Client using the VWM Service;

“**CS**” means Cloud Sustainability Limited a company registered in England with a registration number of 06863577 and a registered office at Leeds Innovation Centre, 103 Clarendon Road, Leeds, LS2 9DF, England;

“**Output**” means the audio and visual information, documents, software, data, content and other material making up the products and services contained or made available to the Client via the VWM Platform in the course of the Client’s use of the VWM Service, but excluding the Client Data and Client Policies;

“**Subscription Period**” means the period of the subscription to the VWM Service as set out in the Proposal;

“**VWM Agreement**” has the meaning given to in Clause 2.1 and comprises the documents set out in Clause 2.2;

“**VWM Platform**” means the online platform used to deliver the VWM Service and all its underlying technology (including all hardware, middleware, software, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible and intangible technical material or information), which is operated by CS;

“**VWM Service**” means the Valpak Waste Manager online waste management learning and compliance subscription service which is provided via the VWM Platform; and

“**User**” means each individual end user who is authorised to access and use the VWM Service for or on behalf of the Client.

1.2. For the purposes of these Special Terms, the following definitions from the General Terms are modified as follows:

“**Client Data**” means such data relating to the Client or the Client’s business including any content, data, information or material that the Client inputs onto the VWM Platform including through the use of the Client’s Account in the course of using the VWM Service and inputting compliance information and financial data relating to the Client’s waste management and sustainability strategies; and

“**Client IP**” means the Client Data, Client Policies and all Intellectual Property Rights in any designs, product specifications, documentation, plans, materials, test results, ideas, concepts, inventions, designs, and branding supplied by Client to Valpak in connection with this VWM Agreement.

“**Fees**” means the fees for the VWM Service detailed in the Proposal or as otherwise agreed between the parties and specifically includes payment of an annual subscription or on a ‘per User per package’ basis.

### 2. BASIS OF CONTRACTING

2.1. An agreement for the provision the VWM Services (“**VWM Agreement**”) shall be formed between Valpak and the Client on the sooner of:

2.1.1. the parties agreeing the Proposal for the VWM Services; or

2.1.2. the Client accessing the VWM Service after such access has been provided (or arranged) by Valpak.

2.2. The VWM Agreement shall comprise of the following documents (which shall also take precedence in the same order in the event of any conflict or inconsistency between them):

2.2.1. the Proposal for the VWM Services;

2.2.2. these Special Terms;

2.2.3. (except where expressly stated to the contrary in these Special Terms ) the General Terms; and

2.2.4. CS’s Privacy and Cookie Policy (which governs the ways in which the Client’s information is collected and used in relation to the VWM Service).

### 3. GRANT OF ACCESS AND LICENCE

3.1. The Client is hereby granted a non-exclusive and non-transferable right to access the VWM Platform and to use the VWM Service (to the extent the VWM Service has been selected and paid for) solely for the Client’s own internal UK business purposes for the duration of the Subscription Period.

3.2. Access to the VWM Service when licensed on a subscription-basis is limited to the number of Users listed in the Proposal. If the Client wishes to increase the number of Users the Client must notify Valpak and pay additional fees for each additional User.

3.3. The rights granted under clause 3.1 are granted to the Client only for the purposes of the Client’s business as carried on at the address given in the Proposal. Such rights shall not be considered granted to any of the Client’s other offices, business divisions, subsidiaries, group or holding companies.

3.4. The Client shall procure that all Users are made aware of and comply with these Special Terms. The Client acknowledges and agrees that the Client is solely responsible for each User’s use of the VWM Platform and the Output and shall be liable for any damage or loss Valpak or CS suffers as a result of any User’s breach of these Special Terms.

### 4. CLIENT’S USE OF THE VWM SERVICE AND THE VWM PLATFORM

4.1. In relation to the VWM Platform the Client undertakes that it shall not:

4.1.1. license, sub-license, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available in any way to any third party the VWM Platform or any Output;

4.1.2. deploy within the VWM Platform any bot, spider, web crawler or other automated query program at any time for any reason including all scraping, crawling, caching or otherwise accessing any content on the VWM Platform. The use of automated systems or software to extract data from the VWM Platform for commercial purposes, (‘screen scraping’) is prohibited without a written licence agreement from Valpak permitting you to do so;

4.1.3. re-use and/or aggregate any content or material available via the VWM Platform in the provision of a commercial service;

4.1.4. introduce Client Data that contains software viruses or any other computer code, files or

programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;

4.1.5. introduce Client Data or otherwise use the VWM Platform and the VWM Service in any way that Valpak deems to constitute or encourage conduct that would be considered a criminal offence, give rise to civil liability, or otherwise be contrary to the law of or infringe the rights of any third party, in any country in the world;

4.1.6. attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form the VWM Platform or Output, except as may be allowed by any applicable law;

4.1.7. attempt to obtain, or assist others in relation to any of the activities at Clause 4.1.1 to 4.1.6 inclusive.

4.2. The Client further undertakes that it shall:

4.2.1. notify Valpak immediately and use reasonable efforts to stop: (a) any unauthorised use of any password or Account or any other known or suspected breach of security; (b) any copying or distribution of Output that is known or suspected by the Client; or (c) any error, incomplete or incompleteness in the VWM Platform;

4.2.2. ensure, and has sole responsibility for, the accuracy, quality, integrity, legality, reliability, appropriateness, and Intellectual Property Rights ownership or right to use of all Client Data;

4.2.3. maintain a list of current Users and the Client shall provide such list to Valpak on request; and

4.2.4. keep all user ID and passwords secure.

4.3. The Client shall procure that each User shall:

4.3.1. comply with the restrictions and obligations placed upon the Client in clauses 4.1 and 4.2 above in respect of each User’s use of the VWM Service and VWM Platform;

4.3.2. complete the VWM Platform’s registration procedure;

4.3.3. keep its user ID and passwords secure; and

4.3.4. be (and remain whilst the provision of the VWM Service continues) either the Client’s employee working exclusively at the Client’s office within the Client’s business or, if a student, a full-time student enrolled on a course with the Client. If any User ceases to work exclusively within the Client’s office for the Client’s business or ceases to be a student enrolled on a course with the Client, the Client must notify Valpak so it can arrange for the termination of that User’s registration and, if the Client so requests, transfer the registration to another full-time employee working exclusively at the Client’s office within the Client’s business or another full-time student (as the case may be).

### 5. PROVISION OF THE VWM SERVICE

5.1. The VWM Service is provided online via the VWM Platform and Valpak shall use reasonable endeavours to ensure that access to the VWM Platform is available at all times.

5.2. The Client acknowledges and agrees that the features, availability, operation and/or look and feel of the VWM Platform, and the VWM Service, may be modified at any time.

5.3. Valpak shall use reasonable endeavours to maintain the security of Client Data stored as part of the VWM Service. If the Client requires more information about data security at CS then it may contact Valpak.

5.4. Valpak (or CS) may audit the use of the VWM Service regarding the name and

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- password for each User. Such audit may be conducted no more than once per month and shall be exercised with reasonable prior notice, in a manner so as to not substantially interfere with normal conduct of the Client's business. If such audit reveals that passwords have been provided to individuals who are not Users, and without prejudice to Valpak's other rights, the Client shall promptly disable such passwords and shall not issue any new passwords to such individuals.
- 6. FEES, PAYMENT TERMS AND REFUNDS**
- 6.1. The Client's right to use the VWM Service shall not commence until Valpak receives full payment for the Fees and/or charges set out in the applicable Proposal.
- 6.2. Valpak reserves the right to suspend or terminate the Client's access to the VWM Service if any amount due by the Client to Valpak is in arrears.
- 6.3. Due to the nature of this service Valpak does not issue refunds once a Proposal has been completed and Fees for access to the VWM Service and any Output have been paid. Valpak will consider providing a refund on a case-by-case basis at Valpak's sole discretion. This Clause does not affect the Client's statutory rights.
- 7. INTELLECTUAL PROPERTY RIGHTS**
- 7.1. Valpak (and its licensors (including CS), where applicable) own all right, title and interest, including all related Intellectual Property Rights, in and to the VWM Platform, and the Output.
- 7.2. Other than the right to access and use the VWM Service as licensed to the Client pursuant to Clause 2, the Client acquires no right to use or any right, title or interest in the VWM Platform or the Output and have no right to any Intellectual Property Right therein.
- 7.3. "Cloud Sustainability" and "Waste Expert" and all other names, logos, icons and marks identifying CS and its products and services are trade marks of CS and may not be used without the prior written approval of CS.
- 7.4. "Valpak" and "Valpak Waste Manager" and all other names, logos, icons and marks identifying Valpak and its products and services are trade marks of Valpak and may not be used without the prior written approval of Valpak.
- 8. LIABILITY**
- 8.1. Clause 9.1 of the General Terms shall apply to the limitations and exclusions of liability in this Clause 8.
- 8.2. The express terms of the Agreement (including these Special Terms) are in place of all warranties, representations, conditions, terms, undertakings and obligations which but for the Agreement (including these Special Terms) would be implied or incorporated into these the Agreement, or any collateral agreement, by statute, common law, custom, trade usage, course of dealing or otherwise, all of which are excluded to the fullest extent permitted by law.
- 8.3. Valpak does not represent or warrant:
- 8.3.1. as to the reliability, timeliness, quality, suitability, availability, accuracy or completeness of the VWM Service, the VWM Platform or any Output;
- 8.3.2. that the use of the VWM Service will be secure, timely, uninterrupted or error-free or operate in combination with any other hardware, software, system or data;
- 8.3.3. that the quality of the Service or the Output will meet the Client's requirements or expectations;
- 8.3.4. that the Service or the server(s) that make the Service available are free of viruses or other harmful components;
- 8.3.5. that any stored data will be accurate or reliable; or
- 8.3.6. that any errors or defects will be corrected.
- 8.4. In addition to Clause 9.2 of the General Terms, Valpak shall not be liable to the Client whether in tort (including negligence and breach of statutory duty), contract, misrepresentation, restitution or otherwise for any direct, indirect or consequential losses arising out of or in connection with:
- 8.4.1. any error or omission, whether human or man made, in the provision of the VWM Service or in the operation of the VWM Platform;
- 8.4.2. the provision of the VWM Service leading to a loss or corruption of content or data or losses or damage to any computer equipment, computer programs, data or other proprietary material caused by caused by viruses, bugs, worms, trojan horses, bots or other harmful and destructive components;
- 8.4.3. the deletion, correction, destruction, damage, loss or failure to store any Client Data;
- 8.4.4. the failure of a Client's software, hardware or connection to the internet;
- 8.4.5. the Client's use of the VWM Service, including in particular: (a) any errors or omissions made by the Client (or any User) in relation to its use of the VWM Service; (b) in a manner contrary to the instructions given to the Client by Valpak (or its subcontractors (including CS)); or (c) after notice of any alleged or actual infringement from any appropriate authority;
- 8.4.6. any modification to the VWM Service by anyone other than Valpak (or its subcontractors (including CS));
- 8.4.7. any unauthorized access to the VWM Software by any person through accident or by fraudulent means or devices;
- 8.4.8. any claim, demand, action, cost, expense, loss or damage arising from or incurred by reason of any infringement of any patent which is not a UK or European ('EP') patent in connection with the use of the VWM Platform or in relation to this VWM Agreement.
- 8.5. Clause 9.3 of the General Terms shall not apply to this VWM Agreement and, instead, Valpak's maximum aggregate liability arising out of or in connection with the VWM Agreement, whether in contract or tort (including in each case negligence) or otherwise shall in no circumstances exceed the total Fees paid by the Client in the 6 month period prior to the event in question giving rise to the claim.
- 8.6. Where the VWM Platform contains links to other websites and resources provided by third parties, these links are provided for the Client's information only and used at the Client's own risk.
- 8.7. Use of the VWM Platform and the VWM Service are entirely at the Client's own risk. The Client must evaluate, and bear all risks associated with, the use of the VWM Platform and the VWM Service and its reliance on said information. All decisions that the Client makes in relation to the information that the VWM Platform and the VWM Service provide are made at Client's own risk. Valpak does not purport to give advice to the Client of any kind on what the Client should or should not do in relation to
- waste management and environmental law compliance generally.
- 9. TERM AND TERMINATION**
- 9.1. This VWM Agreement shall come into force in accordance with Clause 2.1 and shall continue (unless terminated in earlier in accordance with this VWM Agreement) for the duration of the Subscription Period.
- 9.2. On expiry of the Subscription Period, this VWM Agreement shall automatically renew for further consecutive periods of 12 month each (each a "Renewal Period"), unless and until either party serves on the other at least 30 days' written notice prior to the expiry of the Subscription Period (or the then current Renewal Period) of its intention not to renew. Each Renewal Period shall be on the terms of this VWM Agreement, save that the Fee for that Renewal Period shall be as agreed between the Parties at the time or, in the absence of an agreement, the then current list price for VWM for that Renewal Period.
- 9.3. In addition to the termination provisions in Clause 10 of the General Terms, the Client acknowledges that Valpak is entitled to terminate the VWM Agreement or suspend the provision of the VWM Service on written notice to the Client if the Client (or any Users) breach or otherwise fail to comply materially with the VWM Agreement.
- 9.4. On expiry or termination for whatever reason of the VWM Agreement, the Client's right to access the VWM Service (and access and use the Output) shall cease. Any rights that have accrued to the date of termination or expiry will remain enforceable after termination.
- 9.5. When (and howsoever) the VWM Agreement expires or is terminated, Valpak (or its subcontractors (including CS)) shall continue to store Client Data on its servers for a further 6 months. During this 6 month period, the Client may request in writing to Valpak that an electronic copy of the Client Data be sent to its nominated e-mail address. If the Client issues such request within the 6 month period, Valpak shall arrange for a copy to be sent to the Client's nominated e-mail address. If the Client does not issue such request within the 6 month period, Valpak shall arrange for the deletion of all Client Data from its servers (and those of its subcontractors (including CS)). The Client acknowledges and agrees that on the expiry of this 6 month period the Client Data and Account information may be deleted permanently and Valpak (and its subcontractors (including CS)) shall have no liability whatsoever for such deletion.
- 9.6. On expiry or termination of the VWM Agreement the Client shall not be entitled to any form of credit, refund or rebate in relation to the Fees.
- 10. THIRD PARTY RIGHTS**
- 10.1. Clause 17.9 of the General Terms shall not apply to this VWM Agreement.
- 10.2. Subject to Clause 10.3, no term of this VWM Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to this VWM Agreement.
- 10.3. CS may enforce Clauses 3, 4, 5.4, 6.2, 7, 8, 9.3, 9.4 and 9.5 of these Special Terms in respect of the rights, exclusions and limitations afforded to Valpak as if it were Valpak in those Clauses.
- 10.4. Valpak may act as the agent and trustee for CS and enforce on its behalf any Clause referred to in Clause 10.3 and/or recover any losses, damages, costs, expenses or

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other liabilities suffered by it in connection with a breach of any of those Clauses.

10.5. No consent of CS shall be required for any rescission, variation (including any release or compromise in whole or in part of any

liability) or termination of this VWM Agreement or of any part of it.

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