

liquidator, receiver, administrative receiver or similar official or a petition is presented by any person for the appointment of an administrator of the Member or for the winding up of the Member.

11.2 Membership will be for an initial twelve month period [the "Initial Term"] and will automatically renew and remain in force for successive one year terms [the "Renewal Term"] thereafter, unless the Member provides the Operator, or the Operator provides the Member, with written notice of termination of at least 90 days prior to the expiration of the Initial Term or any subsequent Renewal Term.

12 Termination of the Scheme

12.1 The Operator may terminate the Scheme at any point during the year on giving 3 months notice to all Members.

12.2 Members remain under an obligation to pay all sums due under the Scheme and must pay all final invoices within 30 days of the date of invoice, and penalties for late payment shall continue to apply under paragraph 10.5.

12.3 The Operator will have no liability to Members after termination of the Scheme.

13 Indemnity

13.1 Each Member indemnifies the other Members and the Operator against any and all claims, costs, liabilities and expenses howsoever arising from its non-compliance with these Terms and Conditions or the Regulations.

13.2 If any Member's default causes an increase in costs for Members generally, the Operator may at its option pursue the defaulting Member in order to mitigate the effects of that increase.

14 Confidentiality

14.1 The Member and the Operator acknowledge that in their participation in the Scheme, each may have access to information about the other's business, financial or contractual arrangements including with

respect to any fees or other affairs which would normally be regarded by the relevant company as secret or commercially confidential [the "Confidential Information"].

14.2 The Member and the Operator each undertakes that it shall not make any disclosure of Confidential Information to third parties except to the extent that any disclosure is required by law or if such information comes into the public domain. This confidentiality obligation shall remain in force following termination of Membership or termination of the Scheme.

14.3 The Member consents to the Operator's use of its name (but not any details of its business activities or Confidential Information) in compiling lists of Scheme Members for purposes of publicity.

15 Changes to Terms and Conditions and Assignment

15.1 The Operator may at any time modify these Terms and Conditions without prior consultation of Members, if this is necessary in the Operator's reasonable opinion to fulfil the requirements of the Regulations or to facilitate the operation of the Scheme, and will notify Members of any changes at least 30 days before they are to take effect. Such amendments become binding on the Member on the expiry of the relevant notification period.

15.2 Neither the Operator nor the Member may assign its rights or obligations under these Terms and Conditions. The Operator may sub-contract the performance of certain administration and support services to other companies in the Veolia Environnement Group.

16 Force Majeure

16.1 Neither the Operator nor the Member shall be liable each to the other for any delay, hindrance in the performance of, or failure to perform its obligations under these Terms and Conditions (other than the Member's obligation to

make any payment and provide data on its packaging volumes handled) provided that the failure, delay or hindrance arises directly or indirectly from circumstances beyond its reasonable control and arising without fault or error on the part of either party and as such circumstances are usually recognised as events of force majeure, and provided also that the affected party immediately notifies the other of the reason for the default or delay and makes all reasonable efforts to overcome it.

16.2 Neither the Operator nor the Member shall have any liability to the other for any failure to perform its obligations where such performance is, or becomes, unlawful under, or contrary to, the requirements of any applicable legislation.

17 Governing Law and Jurisdiction

17.1 These Terms and Conditions shall be governed by and construed in accordance with English law and the Member and the Operator agree to submit to the non-exclusive jurisdiction of the English Courts in relation to any claim or matter arising in relation to these Terms and Conditions.

18 Notices

18.1 Any notice, invoice or other communication made pursuant to these Terms and Conditions shall be in writing and delivered to the relevant party or sent by first class prepaid letter to the address of the party given in the Membership Agreement or such other address in the United Kingdom or email with proof of delivery as may from time to time be notified under these Terms and Conditions.

18.2 Each such notice, invoice or other communication shall be deemed to have been given or made and delivered, if by letter, 48 hours after posting or, if by delivery, when left at the relevant address or, if by email, 24 hours after the sender receives automated notification that the email has been successfully delivered (which shall be printed by the sender as proof).

Terms and conditions

These are the Terms and Conditions of Membership of the Veolia Packaging Waste Compliance Scheme, setting out the obligations both of Members of the Scheme (individual and group entities) and of its Operator.

1 The Scheme

1.1 Veolia (UK) PLC operates a compliance scheme [the "Scheme"] registered under The Producer Responsibility Regulations 1997 (as amended) [the "Regulations"].

1.2 The Operator of the Scheme is Properpak Limited; 210 Pentonville Road, London, N1 9JY (registered under number 3417947) [the "Operator"], a company within Veolia (UK) PLC and a wholly owned subsidiary of Veolia Environnement.

1.3 The object of the Scheme is to meet the obligations of its Members under the Regulations by means of integrated and sustainable waste management policies in order to complement the use of recycling schemes with energy recovery.

2 Basic Obligations of the Operator

2.1 The Operator undertakes to use its reasonable endeavours to maintain registration of the Scheme and to operate the Scheme in accordance with its Constitution and these Terms and Conditions so that the recovery and recycling obligations of the Members of the Scheme will be carried out in accordance with the Regulations.

2.2 The Operator undertakes to register each of its Members and Groups with the appropriate Agency once all relevant information and/or data requested by the Operator has been received.

"Appropriate Agency" is defined as one of the following, as applicable:- EA, SEPA or the NIEA.

3 Operational Plan

3.1 The Operator will enter into, and maintain in force, agreements with material reprocessors and energy recovery plants, PRN and PERN suppliers, both within Veolia and others, to secure so far as possible the optimum recovery and recycling of packaging waste, in line with the objectives of current legislation and the requirements of its Members.

3.2 The Operator will also:

(i) Enter into agreements with its Members for the acquisition, on their behalf, of Packaging Waste Recovery Notes ["PRNs"] and/or Packaging Waste Export Recovery Notes ["PERNs"], or other evidence of reprocessing satisfactory to the appropriate Agency, sufficient to fulfil their aggregate obligations;

(ii) Offer general guidance on developments in recovery and recycling technologies and their impact on Members' business by means of newsletters and other activities, and make more detailed advice on specific cases available at Members' request.

3.3 The Operator will assist Members in the audit of their Producer Responsibilities under the Regulations, in terms of the calculation of packaging waste volumes they produce and/or handle and their recycling and recovery obligations.

3.4 The Operator encourages Members to increase the amount of waste arising from their business activities to be recycled and recovered and will make consultancy services available to Members to help achieve their aims.

4 Membership

4.1 Producers which enter into an agreement with the Operator for the fulfilment of their obligations are called "Members" of the Scheme, and the term "Member" shall be construed accordingly.

4.2 Membership is open to all obligated Producers as defined by the Regulations.

4.3 Producers who apply to join the Scheme will receive a Membership application pack incorporating:

(i) an Application Form

(ii) a Membership Agreement

(iii) a Packaging Data Request: That is the request (in such formats as the Operator requires) for such warranted packaging data and any other relevant data, and/or information, about the Member and its activities as is required by the Regulations

(iv) the current Terms and Conditions of Membership.

4.4 Current Members of the Scheme will receive, before the deadline date set by the Operator for the submission of data and other information for a given compliance year, a pack incorporating:

(i) a Packaging Data Request: That is the request (in such formats as the Operator requires) for such warranted packaging data and any other relevant data, and/or information about the Member and its activities as is required by the Regulations

(ii) any other documentation and/or forms that the Operator deems necessary in order for the Scheme to comply with the Regulations in a given compliance year.

4.5 Members are under no obligation to use any of the other services provided by the Veolia.

4.6 Members are under no obligation to use the services of any reprocessing companies with whom the Operator enters into contracts for the provision to the Scheme of PRNs and/or PERNs, or with which it otherwise has links.

5 Term of Membership

The standard Membership agreement is for a period of one calendar year from 1st January to 31st December [a “Membership Year”]. Producers may join the Scheme at any time in the calendar year with the agreement of the Operator. Members may, at their option and with the agreement of the Operator, enter into agreements for longer periods.

6 Refusal of Membership

6.1 The Operator may refuse an application for Membership, or renewal of Membership, either completely or for a stated period of time, if to approve the application would in the Operator’s reasonable opinion:

- (i) compromise the Scheme’s ability to comply with the Regulations; or
- (ii) exceed the practical and management capability at the relevant time of the Scheme (based on the capacity of primary reproducers then associated with the Scheme); or
- (iii) if the proposed Member, in the opinion of the Operator, provides insufficient evidence of its ability to fulfil its obligations under the Scheme, including payment of fees and other charges.

6.2 All decisions made by the Operator regarding Membership are final.

7 Group Membership

7.1 An Application for Group Membership may be made by a company forming part of a group of companies (where the group of companies consists of a holding company and one or more of its subsidiaries, or two or more subsidiary companies of the same holding company) [the “Group”].

7.2 The company making the application will be the Member of the Scheme for all purposes connected with these Terms and Conditions and will generally represent the Group to the Operator and enter into the agreement with the Operator on the Group’s behalf.

7.3 The Member shall confirm its authority

to enter into the agreement for itself and on behalf of each other company within the Group.

7.4 Details (including, but not limited to, name, address, type of business and company registration number) of all the companies forming part of the Group Membership must be set out in the Group Membership section of the Application Form. The Operator expects that all those group companies which are Producers for the purpose of the Regulations will form part of the Group Membership. An organogram or other documentation detailing the corporate structure of all group companies, indicating those which are included in the Group Membership, should be disclosed within the Group Membership section of the Application Form.

7.5 The Member shall confirm the accuracy of the details of itself and each other group company set out in the Group Membership Application and in any notification of withdrawal or addition of any company to the Group Membership.

7.6 The Member shall inform the Operator immediately in writing if any group company ceases to be a member of that group and that company shall be deemed to have ceased to form part of the Group Membership from the date the notification is received by the Operator. The relevant company may apply to the Operator for separate membership until the end of the calendar year in question.

7.7 The Member shall inform the Operator immediately in writing if it proposes to add one or more companies to the Group Membership giving details of its name, address, business and the types and volumes of packaging handled and the Operator shall at its option accept the additional company or companies either immediately upon receipt of the notification or with effect from the start of the next compliance year.

7.8 When any company leaves or joins the Group Membership the Member shall comply with the Operator’s reasonable requirements to supply revised calculations of the Group’s obligations under the Regulations in the format and within the time limit prescribed by the Operator.

7.9 The Member shall be jointly and severally liable under these Terms and Conditions with each other Group Company each of whom shall itself be severally liable under these Terms and Conditions.

7.10 Fees and charges for Group Membership are set out in Section 10 below. No addition to the Membership Fees will be made on the joining or leaving of companies of any Group Membership under paragraphs 7.6 and 7.7 within a Membership year but the Operator reserves the right to make such reasonable additional charges as it sees fit in relation to auditing of requirements and other administrative actions caused by such changes.

8 Members’ Obligations

8.1 The Member shall comply with these Terms and Conditions.

8.2 The Member shall fulfil its obligations under the Regulations only through the Scheme.

8.3 Any Member wishing to bring a portion of PRNs and/or PERNs into the Scheme, that are relevant to their material obligation from their own processes, must notify the Scheme manager of their intention, in writing and precise amount, by no later than the 31st March of any compliance year. The Operator reserves the right not to accept any Member’s own PRNs and/or PERNs after this date.

8.4 By 31 October in each compliance year the Member shall supply the PRNs or PERNs it has notified the Operator of under clause 8.3 and the Member shall indemnify the Operator for the cost of the Operator procuring such evidence should the Member fail to do so, unless agreed in writing between the parties.

8.5 The Member shall pay fees, and other levies and charges, as set out in Section 10 of these Terms and Conditions.

8.6 The Member shall provide to the Operator, in the format and within the time limit specified by the Operator, all necessary information relating to the Member’s obligations under the Regulations as set out in Section 9 below.

8.7 The Member shall seek to increase its use of recovery and recycling technologies and shall, in the formulation and implementation of its business policies, take full account of any recommendations the Operator may make. The Member shall regularly review the basis on which it calculates its current obligations under the Regulations and may apply to the Operator for advice and guidance in carrying out such reviews. The Operator will use its reasonable endeavours to respond to any such application.

8.8 The Member shall display the Scheme’s name and logo only to the extent it has, in advance of any display, received the Operator’s written permission to do so. The Member shall not hold itself out with respect to the Scheme to be anything other than a Member of the Scheme. The Member shall refer any enquiries about the Scheme immediately to the Operator, and shall do nothing which may bring the Scheme or the Operator into disrepute.

9 Provision of Information

9.1 Without prejudice to Clause 4, the Member shall, in its initial application for Membership and by 28th February in each subsequent year, use all reasonable endeavours to provide to the Operator, in the Member’s warranted response to the Packaging Data Request the Member’s volumes of packaging handled, in order to enable the Operator to prepare the Scheme’s annual registration with the appropriate Agency.

9.2 The Member shall provide to the Operator such other information as it may require pursuant to the Regulations:

- to enable the Operator to fulfil its obligations to the appropriate Agency
- as in the Operator’s opinion is reasonably necessary to enable the Operator to verify the information provided by the Member as regards its activities and materials
- as in the Operator’s opinion is reasonably necessary to enable the Scheme to be operated efficiently and in accordance with the Regulations.

9.3 The Member shall also provide as soon as practicable, and in any event within 14 days of the relevant event, details of any material change in information given or in its circumstances including, but not limited to, changes of ownership, type and extent of business activities, places of business and contact details, and any other change in circumstances which may render information already provided false or misleading.

9.4 The Member warrants that the information it provides (including information on group companies where the Member represents a Group) is complete and as accurate as reasonably possible in all material respects to the best of the Member’s knowledge.

9.5 The Member grants the Operator and its duly authorised agents, at all reasonable times and on reasonable notice, the right to inspect all the Member’s books and records including computer hardware and software relevant to the volumes of packaging handled by the Member and to have access to the Member’s premises, to enable the Operator to verify the accuracy of any information provided or if the Member has failed to provide relevant information by the due date and so that the Operator may properly carry out its obligations to Members under the Regulations.

10 Payment of Fees and Other Charges

10.1 The Member shall pay to the Operator each year a Membership Fee, an Agency Fee and Material Levies as follows:

- 10.1.1 a Membership Fee. The Membership Fee covers the whole or any part of any year and includes the Scheme’s administration costs. In the case of Group Membership, the Membership Fee will be allocated to the company that made the application (the Member of the Scheme for all purposes connected with these Terms and Conditions).
- 10.1.2 an Agency Fee equal to the amount paid by the Operator to the Appropriate Agency on the Member’s behalf and in the case of Group Membership is the aggregate of all group company fees so payable to the Appropriate Agency.
- 10.1.3 Material Levies in respect of the cost of providing evidence of the Scheme’s compliance with the Regulations on behalf of the Member by acquisition of PRNs and/or PERNs or other valid evidence of reprocessing, including such amounts which were needed to be paid by the Operator or its affiliates to procure valid PRN or PERN evidence in the marketplace, providing it can be reasonably demonstrated by the Operator that such costs were incurred in good faith and were necessary for the Operator (acting prudently) to meet its obligations to the Member, and also any reasonable charges for contingencies or investments by the Operator in activities to pursue the aims of increasing recycling and recovery and the best practicable operation of the Scheme.

10.2 The Operator reserves the right to impose additional charges for additional administration and audit activities in its opinion necessary for the admission to the Scheme of Group Members or on the joining or leaving of the Scheme of any company within a Group Membership in the course of any Membership Year.

10.3 The Member shall pay the Membership Fee and Agency Fee on making its application to join the Scheme or to renew its Membership. Neither the Membership Fee nor the Agency Fee are in any circumstances refundable.

10.4 The Operator shall invoice a Material Levy to the Member not less frequently than quarterly. The Member shall pay the Material Levy within 30 days of the date of the invoice.

10.5 If any sum payable by the Member to the Operator remains unpaid more than 30 days after the date of application in the case of the Membership Fee or Agency Fee or after the date of invoice in the case of any Material Levy, the Member shall pay interest on that sum at the rate of 2 per cent per annum above Barclays Bank plc’s base rate from time to time, such interest to be calculated on a daily basis from the date on which such sum became due.

10.6 No payments made by a Member on behalf of any group company which leaves the Scheme in the course of any Membership Year will be refunded.

10.7 Members who fail to produce their data by the specified dates, and any amendment or resubmission of data, will incur an additional charge in line with the requirements of the Regulations.

11 Termination of Membership

11.1 The Operator may terminate the Member’s Membership by notice in writing and with immediate effect:

- the Member commits a material and/or persistent breach of these Terms and Conditions, or
- the Member fails to pay any Membership Fee, Agency Fee, or Material Levy, or any other charges when they fall due, or
- the Member’s activities bring the Scheme into disrepute, or
- the Member (or in the case of Group Membership, any company within that Group Membership) becomes insolvent or applies for, consents to, or suffers the appointment of a